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Human rights situations that require the Council's attention

Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14512(E)

1814512

Please recycle

On violations of the rights of Orthodox Christians in Ukraine, Montenegro, the Former Yugoslav Republic of Macedonia

We feel obliged to draw the attention of the HRC Advisory Committee on violations of the rights of Orthodox Christian believers in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia (FYROM). In these countries, political authorities, by interfering into the freedom of believers to profess their faith within a freely chosen denomination, try to force them to accept and subject themselves either to a so-called "autocephaly" or to any other form of juridical separation from their legitimate spiritual center with which they are linked by virtue of their religious beliefs.

UKRAINE:
The Ukrainian Orthodox Church

Since 2015, more than 40 churches of the Ukrainian Orthodox Church (UOC) have been illegally seized in hostile manner by radical organizations, supported by the police and civil servants. The total number of conflicts during which attempts were made to seize worship buildings exceeds 100 cases. Supporting the illegal seizure of the church in Katerynovka village, the police used exceeding and arbitrary force by bashing the believers with rubber trancheons1,2. As a result, many of the faithful suffered serious injuries, among the victims are the elderly, women and young people. However, the criminals have never been brought to justice.

In Ptycha village upon the initiative of the local state body the church building was arrested and sealed3. The arrest was allegedly imposed in order to prevent unrest, which is regularly organized by radicals. Thus, instead of protecting the legal owner of the church (UOC), the responsible government officers prevent the legal owner from worshipping in its own church.

With a view to weakening the organizational structure of the UOC, a number of Draft Laws were introduced to the Parliament of Ukraine, which unequivocally restrict the rights of only one denomination, namely the Ukrainian Orthodox Church. The Draft Laws give the right to vote at the general meetings of a religious community to persons who are not actually the members of that particular community. They also oblige the UOC to obtain a special permission from the government in order to appoint a new ruling bishop, as well as require that the religious organizations of the UOC (about 12 000 in Ukraine) conclude additional separate agreements with the government to perform its functions. Moreover, the Draft Laws oblige the Ukrainian Orthodox Church to change its unique name by including in it references to the Russian Orthodox Church or Moscow Patriarchate.

In 2018, the President of Ukraine P. Poroshenko started lobbying the creation of an autocephalous church in Ukraine, using for this purpose his administrative, political and media resources.

The violations against the faithful of the UOC were confirmed by reports of the OSCE SMM4, the UN High Commissioner for Human Rights5, the US State Department on Religious Affairs6, as well as by written statements submitted within the UN UPR and HRC procedures by human rights organizations7.

So far, our NGO has submitted 25 complaints to the UN Special Rapporteur on Freedom of Religion or Belief. A number of complaints were submitted within the UN HCR regular sessions (available at: www.protiktor.com/38hrcsession).

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1 https://www.osce.org/odihr/186901?download=true

2 https://publicadvocacynetwork.org/2018/06/05/mass-bashing-of-civilians-the-uoc-followers-in-katerynivka-village-ternopil-region-latent-war-timeline/

3 https://publicadvocacynetwork.org/2018/04/10/ptycha-village-case/

4 https://www.protiktor.com/38hrcsession/press-release-upr-un-ukraine-2017/osce-informs/

5 http://www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_ru.pdf

6 http://news.church.ua/2016/08/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru,
https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=256253&year=2015#wrapper

7 https://www.protiktor.com/38hrcsession/press-release-upr-un-ukraine-2017/

MONTENEGRO:
The Metropolitanate of Montenegro and the Littoral of the Serbian Orthodox Church

The Metropolitanate of Montenegro and the Littoral is a religious organization that is part of the Serbian Orthodox Church.

The Government of Montenegro in order to support the Macedonian Orthodox Church, which is not recognized by the Universal Orthodoxy has countenanced the following violations of the rights of the believers of the Serbian Orthodox Church:

1. Montenegrian government strives to regulate, by means of agreements, in a selective and discriminatory manner, primarily in relation to the Orthodox Church, the relations with the selectively chosen religious communities. Particularly, the Fundamental Agreement between the Holy See and Montenegro was concluded in 2011, which was followed by the Agreement Regulating Mutual Relations between the Government of Montenegro and Islamic Community and Agreement Regulating Mutual Relations between the Government of Montenegro and Jewish Community in 2012. The stated Agreements are not only different, but also mutually opposed. The Orthodox Church requested on several occasions that its legal position be regulated by means of an agreement, as well. Unfortunately, this did not take place due to the political, not legal reasons, since the Ministry of Human and Minority Rights tried to condition the conclusion of the agreement with its influence on the internal church organization and autonomous canonical right of the Church.

2. In 2015, the Government prepared the Draft Law on Freedom of Religion. The Draft Law caused a considerable disapproval by the public. Legal experts assessed it as retrograde, as compared with the Communist Law from 1977 and as non-aligned with the European Convention. The right to the freedom of religion was significantly reduced in both individual and collective aspects. It was a severe attack from the positions of the state authorities on the internal autonomy and internal organizational establishment of the churches and religious communities, and the Article 52 of the Draft Law is particularly problematic, since it stipulates a new nationalization, i.e. seizure, in favour of the state, of all sacral facilities that were constructed by believers until the year of 1918.

The FORMER YUGOSLAV REPUBLIC OF MOCEDONIA:
The Orthodox Ohrid Archbishopric of the Serbian Orthodox Church

In 2002, after canonical and ecclesiastical reunion of the Ohrid Archbishopric with the Serbian Orthodox Church, police unlawfully, without a court ruling, expelled Archbishop Jovan from his residence and cathedra in Veles.

In 2004, the same illegal actions were committed by the police in terms of the monks of four monasteries, who were immediately expelled from their monasteries after joining the Orthodox Ohrid Archbishopric89.

In 2005 Archbishop Jovan was sentenced to 18 months' imprisonment for Instigation of ethnic, racial and religious hatred, discord and intolerance.

After 220 days in prison, the Supreme Court found the last two of the three points to be unconstitutional and the sentence was shortened to 8 months 10.

In 2006, for the second time, Archbishop Jovan was sentenced on charges for embezzlement and was sentenced to a higher prison term of 2 years. After 256 days in prison, he was released11.

The same year, some armed men, looking for Archbishop Joval, illegally broke into Saint John Chrysostom monastery in the village Nižepole. Having failed to find him there, the armed men started harassing and uttering threats to the nuns, cutting their hair and setting the monastery on fire12. The buildings of the Orthodox Ohrid Archbishopric were raided by the police13 '4, the church in the Saint John Chrysostom monastery was demolished by the state

8 http://forum18.org/archive.php?article_id=228
9 https://web.archive.org/web/20110722215706/http://mhc.org.mk/default-en.asp?ItemID=996B88AD8CF81C4280D853A6695673E4&arc=1
10 http://www.poa-info.org/archbishop/testimonies/verdict_supreme_court.html
11 http://www.poa-info.org/archbishop/testimonies/9_third_verdict_convicting.html
12 http://forum18.org/archive.php?article_id=259
13 http://forum18.org/archive.php?article_id=506
14 https://www.state.gov/j/drl/rls/irf/2006/71394.htm

authorities15, the chapel St. Nectarios of Aegina was vandalized and then completely demolished as well with the serving priest, father Borjan Vitanov, who was beaten up twice16 .

In 2004, Macedonian Parliament adopted "the Declaration for support of the autocephaly of the MOC" thus legalizing the Government's identification with a specific religious community – the Macedonian Orthodox Church1718. There were also case when canonical Orthodox clergy were not allowed to enter the country 19 20.

"Religious groups reported government favoritism toward the Macedonian Orthodox Church – Ohrid Archbishopric (MOC-OA). The retrial of a money laundering case involving the head of the Orthodox Archbishopric of Ohrid (OAO) started in January but was postponed twice. The OAO, which was unable to register as a religious entity, said the government was discriminating against it.

In 2017, the European Court for Human Rights announced its verdict on the case nr. 3532/07: "Orthodox Ohrid Archbishopric against the Former Yugoslav Republic of Macedonia (FYROM)":

"FYROM violated Art. 11 (freedom of assembly and association), in conjunction with Art. 9 (Freedom of Thought, Conscience and Religion), the European Convention on Human Rights ", as the authorities refused to register the Orthodox Ohrid Archbishopric as a special religious community21.

In 2018, officers of the Ministry of Internal Affairs of Macedonia, when Metropolitan John was crossing the border, seized his passport in order to prevent him from participating in the celebration of the 1000th anniversary of the Ohrid Archbishopric.

CONCLUSION

From what has been mentioned, it becomes clear, that the use of power by state authorities to violate the rights of Orthodox Christian believers is becoming a common trend in Ukraine, the Former Yugoslav Republic of Macedonia and Montenegro, since in all these countries political authorities restrict the rights of canonical denominations, seeking to establish and provide advantages to non-canonical religious structures, which were created with the support of state authorities, but without a corresponding support of the local population of these states.
Unfortunately, in the cases listed above, politicians use parliamentary draft laws, police force, as well as arbitrary detentions and arrests, thus violating human rights.
We believe that the Human Rights Council should pay attention to this new type of international crime and prepare a resolution to eliminate its dissemination.

15 https://www.state.gov/j/drl/rls/irf/2006/71394.htm
16 https://www.state.gov/j/drl/rls/irf/2006/71394.htm
17 https://web.archive.org/web/20110725133708/http://www.a1.com.mk/vesti/default.aspx?VestID=28339
18 http://forum18.org/archive.php?article_id=579
19https://web.archive.org/web/20160304023935/http://star.dnevnik.com.mk/default.aspx?pbroj=2565&stID=40335&pdate=20040923
20https://web.archive.org/web/20141006101048/http://star.dnevnik.com.mk/default.aspx?pbroj=2564&stID=40267&pdate=20040922
21 http://www.poa-info.org/synod/announcements/20171117.html

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Please recycle

On Violations of the Rights of Orthodox Christians in Montenegro

Historical Aspect

The establishment of the church organization on the territory of today's Montenegro started already in the first centuries of the Christianity. It is linked to the Saint Sava, the first Serbian Archbishop, and to the year of 1220, when he founded the Eparchy of Zeta in§ this area (today's Metropolitanate of Montenegro and the Littoral) and the Eparchy of Buda (today's Eparchy of Buda and Nikšié).

Social Aspect

There are three traditional religions in Montenegro: Orthodox, Roman Catholic and Muslim religion. As of recently, there is a slight number of members of Jewish and Protestant religions. In accordance with the population census from the year of 2011, there are 72,07 % Orthodox Christians. In spiritual sense, the Orthodox Christians belong to the Metropolitanate of Montenegro and the Littoral and to the Eparchy of Buda and Nikšié, the Eparchy of Zahumlje and Herzegovina and the Eparchy of Mileševa, which are in liturgical and canonical unity with the Serbian Orthodox Church — the Patriarchate in Belgrade.

Legal Aspect

In the year of 2007, Montenegro adopted a new Constitution, which in the Article 14 regulates the separation of the religious communities from the state and stipulates that they are equal and free in performing religious rites and religious affairs. Article 46 of the Constitution regulates the right to the freedom of religion, in the manner which is not completely aligned with the Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Unfortunately, Montenegro is one of the former Yugoslav Republics, where the Law on Legal Status of Religious Communities as of 1977, from the Communist period, is still in force and it is anachronistic.

The Metropolitanate of Montenegro and the Littoral and other eparchies of the Serbian Orthodox Church have been publicly asking for years for the commencement of passing a new Law on Legal Status of Churches and Religious Communities, which would, on the one hand, in the spirit of history and legal-historical tradition of Montenegro and, on the other hand, in the spirit of the mandatory international norms regarding the freedom of religion and social reality, regulate the issue of the realization and efficient protection of the right to the freedom of religion in its individual and collective aspects.

Instead of this, the Government of Montenegro chose to regulate, by means of agreements, in a selective and discriminatory manner, primarily in relation to the Orthodox Church, the relations with the selectively chosen religious communities. Firstly, the Fundamental Agreement between the Holy See and Montenegro was concluded in 2011, which was followed by the Agreement Regulating Mutual Relations between the Government of Montenegro and Islamic Community and Agreement Regulating Mutual Relations between the Government of Montenegro and Jewish Community in 2012.

The stated Agreements are not only different, but also mutually opposed (for example, the public-legal subjectivity has been acknowledged to the Roman Catholic Church, while the civic legal subjectivity has been acknowledged to the Islamic Community and to the Jewish community). The constitutional norm about the equality of the religious communities was violated twice.

The Orthodox Church requested on several occasions that its legal position be regulated by means of an agreement, as well. Unfortunately, this did not take place due to the political, not legal reasons, since the Ministry of Human and Minority Rights tried to condition the conclusion of the agreement with its influence on the internal church organization and autonomous canonical right of the Church.

Problems

In the year of 2000, persons that do not have any kind of canonical legitimacy, along with acting of the security and political structures, established a new religious community under the title "Montenegrin Orthodox Church" in Montenegro. Miraš Dedeié, the former priest of the Ecumenical Patriarchate of Constantinople in Rome, who was excommunicated from the Church due to the proven canonical violations by the Patriarch, Mr. Vartolomej, is its Head. The new community is not recognized by any of the Orthodox Churches in the world.

Such a new religious community acquired its legal status by means of a classic abuse of the Article 2 of the Law on Legal Status of Religious Communities. Having in mind the collective aspect of the right to the freedom of religion, the

establishment of a new religious community in itself would not be problematic. However, acting of such a new community is not only targeted against the Orthodox Church in Montenegro in a verbal sense, but it is Often the case that physical attacks, aggression and violence are used in the attempt to try and perform the seizure (taking away) of the Orthodox temples and monasteries from the Metropolitanate of Montenegro and the Littoral, which represent the church property on the basis of the public documents of Montenegro. Not only do the public authorities not sanction such a criminal behavior, but they also allocate, from the state budget, to such a community, without clear criteria, the highest amounts of financial resources and, in this manner, it appears to be, in spite of the criminal activities, "the Government's new religious community".

In the middle of the year of 2015, the Government prepared the Draft Law on Freedom of Religion, and referred it to the public discussion in the period of annual leaves. The representatives of the churches and religious communities did not have their representatives in the Working group that prepared the Draft Law, which represented a serious violation of the obligatory regulations. Only the Government's officials were represented in the Working group.

The Draft Law caused a considerable disapproval by the public. Legal experts assessed it as retrograde, as compared with the Communist Law from 1977 and as non-aligned with the European Convention. The right to the freedom of religion was significantly reduced in both individual and collective aspects. It was a severe attack from the positions of the state authorities on the internal autonomy and internal organizational establishment of the churches and religious communities, and the Article 52 of the Draft Law is particularly problematic, since it stipulates a new nationalization, i.e. seizure, in favour of the state, of all sacral facilities that were constructed by believers until the year of 1918.

The Draft Law was opposed, through their objections, by the Orthodox Church, Roman Catholic Church and Islamic Community, along with the significant part of the professional public. The representatives of the Church had a meeting with the representatives of the Venice Commission and OSCE/ODIHR at which they submitted their objections in English language to them. In the end, in March 2016, the Government withdrew the Draft Law on Freedom of Religion from the procedure before the Venice Commission. Even after that, the violation of the prescribed procedure was continued, given that this issue has been on stand-by for almost three years.

Apart from the jeopardization of the identity, dignity; mission and property of the Orthodox Church in Montenegro by the members of the newly formed organization "Montenegrin Orthodox Church", a particular problem is also reflected in the fact that the state authorities have still not facilitated holding of religious instruction (teaching classes) in the public and private schools, which represents the breach of the rights of children to religious education, guaranteed by the international legal acts on human rights. Also, there is a discriminatory acting in terms of preventing the return or compensation of the sacral property to the Orthodox Church, Roman Catholic Church and Islamic Community, which was taken away from them by the Communist State. Churches and religious communities have almost no kind of treatment in the public broadcasting service — the Radio and Television Montenegro. The status of priests and religious officers is not adequately regulated, and the Ministry of Interior has been enabling, for years already, the issuance of a temporary residence permit to the priests and monks of the Orthodox Church, Who do not have the Montenegrin citizenship.

Conclusion

We consider it necessary that the public authorities of Montenegro comprehend that the right to the freedom of religion is one of the fundamental human rights and that believers cannot be second-class citizens because of their religious convictions. Due to this reason, a radical change of the public authorities' attitude towards this issue is necessary.

In institutional terms, the public authorities must protect the legal order and rights for all, including the Orthodox Church. Each attack on the churches and safety of believers must be sanctioned in accordance with the legal regulations, instead of being tolerated, as it has been the case so far. The rule of law must apply also in cases when attacks on the Orthodox Church are perpetrated.

We urge the UN Human Rights Council to pay careful attention to the above evidence of human rights violations and take effective action for their protection.

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1814187

Please recycle

On Violations of the Rights of the Ukrainian Orthodox Church

1. About the Submitting NGO and the sources of evidence of the rights violations.

Since 2015, our organization have been monitoring the observance of the rights and freedoms of believers of the Ukrainian Orthodox Church (UOC) in the Lvov, Rovne, Ternopol, Volyn, Kiev, Zhitomir, Nikolayev, Kherson, Khmelnitsky, Vinnytsia regions. As a result, we have established numerous facts of violations of the rights of the UOC. The findings of our work are confirmed by the following:

- A statement on current stance with human rights in Ukraine over 16 November 2015 – 15 February 15, 2016 by the Office of the United Nations High Commissioner for Human Rights[1] (Para. 119-120);
- A report of the US State Department on Religious Freedom in the World of 2015[2];
- Bulletin of the OSCE SMM during the monitoring period[3];
- Reports of human rights organizations[4];
- Human Rights Council Working Group on the Universal Periodic Review Twenty-eighth session Geneva, 6-17 November 2017[5].

2. Hate speeches and incitement to perpetration of crimes with regard to the UOC believers.

Hate mongering in relation to the Ukrainian Orthodox Church is regretfully of systemic nature and lacks due assessment by the state power bodies. Even direct calls to committing grievous offences with regard to the UOC believers do not lead to any response on the part of the law enforcement authorities.

For instance, deputies of Ternopol Regional Council make official and public decisions containing defamatory and discriminatory accusations of the UOC religious organization – the Holy Dormition Pochayev Lavra. In fact, one of the decisions made at the council sessions pointed to the following: "…the focal centre of anti-Ukrainian activity and inter-religious conflict…– the Pochayev Lavra of Holy Dormition. Under the "canonical" guise the Ukrainian Orthodox Church of Moscow Patriarchate actually intends to russify the Ukrainian population assisting the invaders."

In July 2016 a peaceful procession was held in Ukraine – All-Ukrainian Cross Procession with over 80 thousand believers of the Ukrainian Orthodox Church participating in it. Despite a peaceful character of the religious procession, it was subject to discriminatory attacks, hate speech, forceful obstacles and other actions, including those characteristic of gravest criminal offences. The above listed urges and remarks were not at all condemned or counteracted by the state bodies, which created favorable conditions for committing offences with regard to the Cross Procession participants such as threats to damage property and inflict physical injuries[6].

3. Church seizures, arsons and plundering

Over the period of 2014-2017 across the territory of Ukraine there have been undertaken over 70 open assaults of worship buildings which belong to the Ukrainian Orthodox Church, mostly in Rovno, Ternopol and Volyn regions. The precise number of conflicts which have not grown into forceful seizures is not known, however, they exceed several hundred incidents. A considerable part of raids ended up with an actual takeover of temples and their further transfer

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[1] www.ohchr.org/Documents/Countries/UA/Ukraine_13th_HRMMU_Report_3March2016_ru.pdf

[2] https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=256253&year=2015#wrappper, http://news.church.ua/2016/11/12/v-gosdepartamente-ssha-soobshhili-o-narusheniyax-prav-veruyushhix-v-ukraine/?lang=ru

[3] Information message of the OSCE mission on the results of observation of the grips of churches of the UOC and other conflicts in the religious sphere in Ukraine www.potiktor.com/english

[4] https://www.upr-info.org/sites/default/files/document/ukraine/session_28_-_november_2017/adf_international_upr28_ukr_e_main.pdf

[5] https://www.upr-info.org/sites/default/files/document/ukraine/session_28_-_november_2017/a_hrc_wg.6_28_1.13.pdf

[6] Refer to the Reply of the UOC Chancellor dated 2016: http://news.church.ua/2016/12/31/zvit-keruyuchogo-spravami-ukrajinskoji-pravoslavnoji-cerkvi-za-2016-rik/

into disposal by religious organizations of the Kiev Patriarchate. Another part of worship buildings remains sealed, including upon the agreement of conflicting parties or by virtue of decisions taken by local authorities.

Despite numerous facts of filing applications by the UOC communities to the law enforcement authorities on perpetration of criminal offences against these communities are not investigated.

The current situation of outspoken discrimination of the UOC and failure of the authorities to respond to overt cases of perpetrating crimes has led to a criminal upsurge relating to the UOC property. For example, in 2016 only in one Kiev eparchy the unknown persons committed acts of arson and desecration with 5 UOC temples. In October 2016 Chancellor of Sarny diocese Metropolitan Anatoly of Sarny and Polesye addressed the President of Ukraine with a request to defend UOC temples in Rovno region against desecration and assaults of vandals. In 2015 year over 20 acts of vandalism and looting were committed in Rovno region.

4. Dynamic actions of the state power bodies on discrimination of the UOC rights.

In an array of cases public authorities were openly supportive of the UOC-KP confession adherents in the conflict situations, resorting to a legal and forceful action in favor of the Kiev Patriarchate. In fact, in the wake of attempts to raid a church in Kuty village of Kremenets district of Ternopol region, Ternopol Regional Council filed a suit to the court on withdrawal of the ownership of the Ukrainian Orthodox Church community in Kuty village.

Additionally, after the beginning of the military strife in Ptichya village, Rovno region, a state body – the village council – made a decision to establish an alternate use of the church building together with the community of the Kiev Patriarchate despite the fact the UOC community had the property right to the building. After this decision had been cancelled by the court, law enforcement bodies initiated a criminal proceeding upon the risk of temple destruction by non-identified persons and applied to the court to arrest the temple building as evidence on the case. This request was satisfied by the court, as a consequence of which the temple was sealed by the law enforcement representatives with a view toprohibiting the temple owner – UOC community – to use their property. The described legal strategy was caused by the four court rulings in favor of the UOC community and arose from the local judicial branch using its authorities upon a legal address, which does not foresee the community's right to challenge a decision of local courts within the national legal system. The UOC community of Ptichya village lodged a respective complaint upon the matter with the European Court for Human Rights.

An active position was taken by the state law enforcement bodies in Katerinovka village of Ternopol region, having employed rubber truncheons and physical force toward peaceful believers who had gathered to defend their rights and 14 of whom eventually suffered bodily damage, including fractured limbs and severe head injuries. Among the aggrieved were women, elderly people and students. Upon these actions of the law enforcement authorities the prosecutor's office in Ternopol region opened a criminal case, which has not yet resulted in bringing any of the persons involved to justice.

Besides, an executive committee of Zhitomir city council "with a view to preventing clashes and conflicts between participants of civil assemblies" turned to the court having an intention to change the itinerary of the religious column of All-Ukrainian Cross Procession. The administrative court of Zhitomir resolved to decline the consideration of the legal claim of the executive committee of Zhitomir city council to Zhitomir UOC diocese on restrictions of the Cross Procession[7].

22.07.2016 Borispol city council adopted a decision "On prohibition of the Cross Procession of peace of the Ukrainian Orthodox Church (Moscow Patriarchate) through Borispol city"[8]. Albeit this body is not empowered to restrict peaceful processions, this decision was subsequently used by the UOC opponents to create forced obstacles for the Cross Procession participants.

5. Overt calls to commit crimes against the UOC

[7] http://rian.com.ua/society/20160719/1013361891.html

[8] https://www.facebook.com/permalink.php?story_fbid=943059639149596&id=715896135199282

Calls of radical groups to commit crimes against the UOC and seize its churches galvanized at the end of 2017 / early 2018. In particular, during the seizure of a church in Kolomiya village, representatives of radical organizations were calling for the persecution of believers on the basis of their affiliation to the UOC.
In 2018, radical group "C14" has committed a number of overt crimes against the believers of the UOC by:

- organizing a manifestation near the Kiev-Pechersk Lavra, during which the faithful of the UOC were publicly called "agents of the FSB and the Kremlin". The radicals also demanded to withdraw a building of the monastery from the possession of the UOC. These slogans were publicly demonstrated.
- publicly damaging the property of the Desyatinny Monastery in Kiev, destroying part of the fence of the monastery. Some unknown persons made an attempt to set the church building on fire using an incendiary mixture. The suspects of the arson were detained by the police.
- attacking the office of the Union of Orthodox Journalists, who cover in their publications the facts of human rights violations against the UOC.

In accordance with the established rules of procedure of the UN Human Rights Council, following the above mentioned violations, both individual and collective complaints were submitted by the faithful and religious organizations of the UOC for the period of 2015-2017.

In connection with what has been stated, we express our utmost concern about the situation that threatens to undermine religious peace in Ukraine. We call on the international community and responsible human rights bodies to immediately intervene into the evolving religious confrontation in Ukraine.

We strongly emphasize the real threat of massive grave crimes against the faithful and religious organizations of the UOC in Ukraine.

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Defamatory and stigmatizing propaganda as an element of unlawful pressure on the Ukrainian Orthodox Church

We draw the attention of the the UN Human Rights Council, OSCE, UNHCHR, the Council of Europe, bodies and structures whose mandate includes the protection of human rights, as well as all stakeholders to the fact that in April-May 2018 illegal pressure on the Ukrainian Orthodox Church has grown. First of all, it is caused by the attempts to impose the project of the Single Local Church (hereinafter SLC) and autocephaly on Orthodox believers of Ukraine in a format being rejected by the significant number of Orthodox believers.

The statements of the President of Ukraine and the decisions of the Parliament, numerous visits of diplomatic delegations of Ukraine to Istanbul, meetings of state officials with the Patriarch of Constantinople allow us to conclude that this issue is no longer an internal matter of the Church. The hierarchy and believers of the Ukrainian Orthodox Church are subjected to the intensified political and administrative pressure aimed at forcing them to accept the SLC project in the format which is considered proper by the presidential political circles.

In particular, the President of Ukraine stressed[1] that he is determined to act very decisively towards the creation of the SLC and to oppose all who will stand in the way of "national interests of Ukraine", the website of the President reports. "This is a matter of national security and our defense in a hybrid war, because the Kremlin views the ROC as one of the key instruments of influence on Ukraine," Petro Poroshenko said. "Therefore, I am very determined to act in this matter. And to counteract all those who will stand in the way of Ukraine's national interests and will try to disrupt cooperation with the Ecumenical Patriarchal Throne," he said.

This situation is an unacceptable interference of government officials in the internal affairs of the Church, which is not only separated from the state, but also has the right to maintain its status, including legal and canonical.

In accordance with international legal standards and European practice, the form and method of canonical relations of any Church with religious foreign centers are an internal matter of a religious denomination and constitute the religious identity of believers. Confession of religious beliefs in a particular Church is a subjective right to freedom of religion, and everyone has the right to choose the Church according to their selection criteria, including canonical one.

Citizens of Ukraine, as well as church hierarchs, are not prohibited from contacting leaders of other religious faiths and expressing to Constantinople Patriarch Bartholomew, as well as others, their views on matters relating to religious life, especially in the situation when the public administration interferes into affairs of the Church, which has the autonomous legal status of an association (corporation) of private, rather than state-public law. The collection of signatures, petitions, appeals, statements alongside organizing meetings, rallies, demonstrations and negotiations appear as forms of expression of the opinion of civil society and guarantees of democratic European freedoms.

Unfortunately, we have to state that the listed rights are currently being restricted by government officials who exert unlawful pressure on believers, forcing them to abandon legitimate forms of expressing their opinions on issues they are concerned with. In a number of cases, there have been documented threats and facts of conducting "preventive" interviews by law enforcement officials in order to block the initiatives of believers in expressing their viewpoint on the establishment of the Single Local Church.

One of the lines of illegal pressure is a requirement on the part of a number of state employees and politicians to change the name of the Ukrainian Orthodox Church by affixing the Moscow Patriarchate to the name and changing the organizational status of the UOC for Exarchate of the Moscow Patriarchate. Such requirements are illegal and unacceptable in a civilized society. Changing the name of the UOC by indicating its affiliation to the Moscow Patriarchate, as well as changing the organizational form for the Exarchate cannot be achieved either by administrative or compulsory legal decisions, since these issues pertain to the sphere of civil law and can only be resolved by the

1 http://spzh.news/en/news/52924-poroshenko-prigrozil-vsem-kto-popytajetsya-sorvaty-kooperaciju-po-jepc.

decision of the Ukrainian Orthodox Church. Any administrative resolution in this matter will not only be against democracy and law, but will testify to the total loss by Ukraine of its minimal standards of civilized state administration.

Another unacceptable legal violation is resorting to hate speech that incites religious hatred – in the rhetoric of leaders of religious confessions and civil servants – in relation to the Ukrainian Orthodox Church.

As a matter of fact, leader of the religious confession of the UOC-Kyiv Patriarchate Filaret Denisenko alongside a number of hierarchs of this faith, without any grounds or evidence, publicly accuse[2] the Ukrainian Orthodox Church of propagating the "Russian world", voicing statements that that the status of the UOC can be changed to "exarchate". In a number of cases, the clerics of this denomination initiate power clashes around the UOC temples and openly demonstrate a negative and hostile attitude towards Orthodox believers. Numerous proofs of such actions are contained both in the information space and reports of human rights organizations[3]. All these facts testify not only to the inter-faith tension in the country, but also to the use of the state administrative resource, which publicly and openly supports aggression against the Ukrainian Orthodox Church.

A marker of aggressively hostile propaganda towards Orthodox believers of the UOC is that personal data of the hierarchs of the Ukrainian Orthodox Church – Chancellor of the UOC Metropolitan Anthony (Pakanich), head of the UOC Representation to European Organizations Bishop Victor (Kotsaba), deputy chairman of the Department for External Church Relations of the UOC Prot. Nikolai Danilevich, and priest Aleksei Zoshchuk – were published on "Mirotvorets" ("Peacemaker") site.

As you know, the activity of this site is provocative, as it publishes personal data, the placement of which without the consent of the owner is a criminal offense in accordance with Article 182 of the Criminal Code of Ukraine. Besides, given the nature of the activity of this information resource, publishing personal data of church hierarchs testifies to incitement of religious enmity towards Orthodox believers.

It should be noted that the activities of Metropolitan Anthony (Pakanich) of Borispol and Brovary, Bishop Victor (Kotsaba) of Baryshevka, Protopriest Nikolai Danilevich, as well as priest Aleksei Zoshchuk, are qualified as the work of human rights defenders. According to the standards of the UN, OSCE, the European Union, and the norms of international law – those who defend rights, including religious ones, are recognized as human rights defenders regardless of their professional status.

States, including Ukraine, have assumed increased obligations to protect the rights of human rights defenders and pledged to provide conditions for their free and unhindered work.

A case in point is information messages about priest of the UOC Aleksei Zoshchuk, posted by the Ukrainian information resource "Obozrevatel" ("Observer") under the title "For the money of Russia? Scandalous priest of the UOC MP boasts of a luxurious holiday in UAE" and interpreted as a stigmatizing campaign. This publication contains personal photos of the family of Aleksei Zoshchuk, including minor children, showing that in February 2018 he spent an expensive vacation with his family. Additionally, he is alleged "to go to Moscow with his assistant for a meeting with the FSB curator to receive instructions and discuss the strategy of the information and propaganda war against Ukraine and disrupting the establishment of a Single Local Ukrainian Orthodox Church."

Such accusations are an example of the planned slanderous information propaganda against the clergyman who, by the nature of his activities, defends the rights of believers. Earlier, Aleksei Zoshchuk became the victim of an attack by the radicals from S14, who'd broken into the office of the information agency Union of Orthodox Journalists, with which A. Zoshchuk carries out his professional activities. Thus the case of Aleksei Zoshchuk is an example of stigmatization of the priest for his human rights activities to protect his flock.

[2] www.protiktor.com/38HRCsession.

[3] www.protiktor.com/upr.

Of particular attention is the fact that both Metropolitan Anthony (Pakanich) and Bishop Victor (Kotsaba), as well as Prot. Nikolai Danilevich, were stigmatized for their human rights activities related to their public speeches at international venues of the OSCE and the UN. This fact certainly will not go unnoticed by the international community and the state of Ukraine will have to make efforts to eliminate this offense as quickly as possible; otherwise it will serve as an evident proof of the anti-European and anti-legal policies of the ruling politicians in Ukraine.

In the light of the foregoing, I request your greatest attention to the above facts and to take actions to protect the rights of Orthodox believers in Ukraine, prevent interreligious clashes and help put an end to political, administrative and power pressure on the religious faith of the Ukrainian Orthodox Church.

United Nations A/HRC/39/NGO/5

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Human rights situations that require the Council's attention

Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14195(E)

1814195

Please recycle

On the high responsibility of the Holy Synod of Constantinople Patriarchate

NGO "Public Advocacy" is a human rights organization in special consultative status with the UN Economic and Social Council, which enables us to promote the protection of human rights at the UN Human Rights Council as well as participate in meetings and conferences held by various international human rights bodies and mechanisms (our name in the ECOSOC database appears as Public Organization "Public Advocacy"). NGO "Public Advocacy" regularly submits human rights reports to the UN, the EU and other designated committees and commissions established by various international structures whose mandate is to protect human rights and ensure stability throughout the world.

We directly represent the interests of Orthodox communities and believers in the courts and law enforcement agencies of Ukraine, supply information on the situation of Orthodoxy in Ukraine to the OSCE and the UN Human Rights Council.

We draw your attention to the fact that since 2015, over 40 temples belonging to the Ukrainian Orthodox Church have been illegally seized; many churches have been subject to arson, whereas believers have been beaten up by representatives of radical organizations and power units of the governmental authorities[1].

Unfortunately, despite our appeals to state bodies, they fail to ensure legal protection to believers, let criminals go unpunished, and pursue an outspoken discriminatory policy towards Orthodox believers. Senior civil servants often resort to hate speech in relation to the Ukrainian Orthodox Church, accusing it of aiding Moscow.

According to our observations, based on the evidence and testimonies of eyewitnesses, clerics of the religious organization of the "Kyiv Patriarchate", unrecognized by Ecumenical Orthodoxy, as well as members of radical organizations, who are indirectly or directly supported by the authorities, account in many cases for inciting religious animosity towards Orthodox Christians.

The statements of the President of Ukraine and the decisions of the Parliament, numerous visits of diplomatic delegations of Ukraine to Istanbul, meetings of state officials with the Patriarch of Constantinople allow us to conclude that this issue is no longer an internal matter of the Church. The hierarchy and believers of the Ukrainian Orthodox Church are subjected to the intensified political and administrative pressure aimed at forcing them to accept the SLC project in the format which is considered proper by the presidential political circles.

In particular, the President of Ukraine stressed[2] that he is determined to act very decisively towards the creation of the SLC and to oppose all who will stand in the way of "national interests of Ukraine", the website of the Presidentreports. "This is a matter of national security and our defense in a hybrid war, because the Kremlin views the ROC as one of the key instruments of influence on Ukraine," Petro Poroshenko said. "Therefore, I am very determined to act in this matter. And to counteract all those who will stand in the way of Ukraine's national interests and will try to disrupt cooperation with the Ecumenical Patriarchal Throne," he said.

Currently, the mass media are engaged in disseminating the information that the Patriarchate of Constantinople can grant the canonical status to the schismatic organization "Kyiv Patriarchate" or bestow autocephaly in another way.

As a matter of fact, leader of the religious confession of the UOC-Kyiv Patriarchate Filaret Denisenko alongside a number of hierarchs of this faith, without any grounds or evidence, publicly accuse the Ukrainian Orthodox Church of propagating the "Russian world", voicing statements that that the status of the UOC can be changed to "exarchate". Furthermore, the Kyiv Patriarchate openly and publicly declares that the Patriarchate of Constantinople practically promised to grant the canonical status to the Kyiv Patriarchate. In particular, head of the Kyiv Patriarchate Filaret (M. Denisenko) made this statement in the European Parliament on May 2, 2018: "We hope that after receiving the Tomos on autocephaly of the Ukrainian Church there will be one Orthodox Church in Ukraine, and the Moscow Church, if refusing to unite with the Ukrainian Church, will be called an Exarchate of the Russian Church in Ukraine

[1] www.protiktor.com/38HRCsession.

[2] http://spzh.news/en/news/52924-poroshenko-prigrozil-vsem-kto-popytajetsya-sorvaty-kooperaciju-po-jepc.

rather than the Ukrainian Church ... As for the Lavra, it will belong to the Ukrainian Church, because it is the Church of Ukraine and it cannot belong to the Russian Church ... Now we can see that Patriarch Bartholomew is resolute and determined to solemnly proclaim the Tomos of autocephalous status, to recognize our Church, and enter into communion with it.

In a number of cases, the clerics of this denomination initiate power clashes around the UOC temples and openly demonstrate a negative and hostile attitude towards Orthodox believers. Numerous proofs of such actions are contained both in the information space and reports of human rights organizations. All these facts testify not only to the inter-faith tension in the country, but also to the use of the state administrative resource, which publicly and openly supports aggression against the Ukrainian Orthodox Church.

A marker of aggressively hostile propaganda towards Orthodox believers of the UOC is that personal data of the hierarchs of the Ukrainian Orthodox Church – Chancellor of the UOC Metropolitan Anthony (Pakanich), head of the UOC Representation to European Organizations Bishop Victor (Kotsaba), deputy chairman of the Department for External Church Relations of the UOC Prot. Nikolai Danilevich, and priest AlekseiZoshchuk – were published on Mirotvorets (Peacemaker) site.

As you know, the activity of this site is provocative, as it publishes personal data, the placement of which without the consent of the owner is a criminal offense in accordance with Article 182 of the Criminal Code of Ukraine. Besides, given the nature of the activity of this information resource, publishing personal data of church hierarchs testifies to incitement of religious enmity towards Orthodox believers.

It should be noted that the activities of Metropolitan Anthony (Pakanich) of Borispol and Brovary, Bishop Victor (Kotsaba) of Baryshevka, Protopriest Nikolai Danilevich, as well as priest Aleksei Zoshchuk, are qualified as the work of human rights defenders. This fact certainly will not go unnoticed by the international community and the state of Ukraine will have to make efforts to eliminate this offense as quickly as possible; otherwise it will serve as an evident proof of the anti-European and anti-legal policies of the ruling politicians in Ukraine.

We are deeply convinced that the discussion of the issue regarding, as well as the adoption of any decisions regarding Orthodoxy in Ukraine, is not possible until conflicts around the temples of the Ukrainian Orthodox Church have been put to an end, and those guilty of crimes against Orthodox Christians have been brought to justice. State bodies of the highest level should provide real guarantees of observance of the rights of the UOC believers and confirm through specific actions that Orthodox Christians can enjoy real protection. Unfortunately, this is not the case at the moment, and any wrong conduct or promise given by the Patriarchate of Constantinople or its representatives can step up the activity of radical structures in Ukraine and entail new clashes.

In fact, since the Holy Synod of the Patriarchate of Constantinople made a decision to consider the issue in relation to the Orthodox Church in Ukraine, radical organizations have immediately increased their activity and started preparations for the capture of the UOC shrines, while politicians of different scales have intensified agitation in all directions.

We draw attention of UN HRC to the fact that the legal and spiritual responsibility for probable clashes, human toll and afflictions of believers will be borne by persons whose actions, rash statements or pledges may provoke new conflicts and clashes on religious grounds in the country.

At the same time, taking advantage of the high rostrum of the United Nations, we urge the Holy Synod of the Patriarchate of Constantinople and His All Holiness Patriarch Bartholomew to refrain from any decisions on the establishment of a Single Local Church, autocephaly or taking religious organizations in Ukraine under omophorion, because such decisions will result in clashes on the religious ground and finally undermine the religious peace in Ukraine.

We draw your attention to the fact that any action of the Holy Synod of the Patriarchate of Constantinople, statements of His All Holiness Patriarch Bartholomew on the Ukrainian issue, as well as public demonstration of the consideration of petitions on Ukrainian issues may entail violations of the rights of believers in Ukraine.

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Human rights situations that require the Council's attention

Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 August 2018]

* Issued as received, in the language(s) of submission only.

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1814197

Please recycle

Draft laws Nos. 4128, 4511, 5309 as a threat to religious peace and a new factor of territorial destabilization in Ukraine

The present statement is submitted for the second time to the United Nations Human Rights Council in order to draw its attention to the threat of breaking religious peace, which is still existent due to the fact that the draft laws Nos. 4128, 4511, 5309 are still under consideration by the Parliament of Ukraine. We urge the UN Human Rights Council to pay careful attention to this extremely important issue and take it under consideration as soon as possible.

1. Summary of violations of the UOC rights

In accordance with the Statement of Bishop Victor (Kotsaba), Head of Representative Office of the Ukrainian Orthodox Church to International Organizations at the OSCE Meeting, 22-23 June 2017, Vienna,[1] "In the period of 2015-2017, 45 temples – religious buildings owned by the UOC religious communities – were subject to raiding, while over 100 temples appeared under threat of such seizures. Officers of the police units, abusing their power, resorted to assault and battery toward our believers in the villages of Ptycha and Katerynivka of Ternopil region, having inflicted severe injuries on elderly people and women. Many religious buildings remain sealed by the authorities up to the present day. Such violent actions are carried out by members of radical organizations with the participation of interested religious confessions, with connivance – and sometimes even direct support – of local authorities".

2. Draft laws restricting rights of religious organizations of the UOC and establishing additional obligations for religious organizations of this denomination

During the year of 2016, three draft laws (## 4128, 4511, and 5309) were submitted to the Verkhovna Rada of Ukraine, which foresee an introduction of a number of additional obligations for religious organizations of the UOC confession. At the same time similar obligations are not envisioned for other confessions. In particular, draft law #4511 stipulates an obligation of the UOC religious communities to draw up individual agreements with state bodies, as well as to receive a permit to elect (appoint) diocesan administrative staff. Bill #5309 binds religious organizations of the UOC to include references on "affiliation to the aggressor state" into their title. Draft law # 4128 unreasonably and in violation of the international law norms establishes the rights of residents of a particular populated area to administer communities within their populated areas irrespective of whether these persons are members of the community's administrative body. The above draft laws are geared at the discriminatory restriction of the UOC in the enjoyment of its rights and if adopted – will bear witness to the ungrounded intrusion of the state into the internal administrative mechanism of religious organization, leading de-facto to the legal obstruction of activities of the UOC religious organizations.2

In particular, as the Head of Representative Office of the Ukrainian Orthodox Church to International Organizations Bishop Victor Kotsaba said at the OSCE meeting: "I want to draw particular attention to the preparation of draft laws Nos. 4128, 4511, 5309, submitted to the Verkhovna Rada of Ukraine, which are discriminatory in relation to the Ukrainian Orthodox Church. Thus, some politicians want to impose a special status on our denomination, oblige it to change the name and sign special agreements with state bodies. The appointment of priests is also supposed to be approved by the relevant state structures. At the same time, the obligation is not prescribed for other confessions. Such rules did not exist even in the times of the USSR, whose authorities used to put a systematic but unofficial pressure on the Church. In view of the above, on May 18, 2017, a prayerful standing, which counted thousands of believers, was held near the Parliament in Kiev against the adoption of these laws. Concerns about the probable adoption of such laws were expressed by the World Council of Churches, several Autocephalous Orthodox Churches (Alexandria, Bulgaria, Czech Lands and Slovakia), as well as the State Secretariat of the Vatican. Nevertheless, these bills are still on the agenda of the Ukrainian Parliament."

[1] http://www.osce.org/odihr/325191?download=true.
[2] https://www.protiktor.com/english/.

3. Non-compliance of draft law 4128 with international law

Bill No. 4128 foresees that persons who were not admitted to the community, but who decided to identify themselves with this community, receive the right to vote at a general meeting of the religious community.

Thus, according to the draft law, the provisions of the statutes of religious organizations that provide for membership in the community being obtained only on the basis of an application and establishing the need for approval of membership by a decision of the general meeting of the community members become invalid.

At the same time, standards of the international law establish an obligation of the state to ensure internal guidelines and norms of the religious right as a part of freedom to the freedom of religion. For this reason individuals who observe their religious guidelines can enjoy an unquestionable right to accept or not accept other persons to become members of their religious group, and independently define if these new comers are in line with the criteria enshrined by whatever religious doctrine.

There are no doubts that the person who does not conform to certain rules of religious life, which are deemed fundamental by the certain religious organization, can be not only non-admitted to membership of this religious group but also excluded from it. In fact, the European Court of Human Rights in the case Obst vs. Germany (№ 425/03), by the chamber resolution of 23.09.2010, declined a complaint of the applicant – member of the Mormon religious organization who had been made redundant in this organization and excluded from the community's membership due to the fact of his conjugal infidelity. The court admitted that the claimant, who had been raised in the Mormon environment, had to be aware of the importance of faithfulness in marriage and inappropriateness of misconduct under the regulations of this organization.

It's noteworthy, the European Court of Human Rights laid down some legal provisions which are not to be changed even by virtue of adopting the draft law under consideration. In particular, under the ECHR's decision dated 14.06.2007 in the case "Saint Michael parish against Ukraine", it is stated (para 146-147): "Contrary to the conclusions of national courts, articles 7 and 8 of the Law, it was not enshrined that a religious group shall consist of all individuals and all believers who attend worship services of a particular church… article 8 of the Law (987-12) in no way restricts or hampers a religious organization to determine on its own choice in which way it will decide to enroll new members, define the membership criteria and election procedure for the administrative bodies. From the standpoint of article 9 of the Convention (995_004), taken together with article 11, these were the decisions being in the private law plane and not being subject to interference from the state power bodies unless they violate rights of other individuals or fall under restrictions specified in para 2 of articles 9 and 11 of the Convention. In other words, the state cannot commit a legally existing private association to accept new members and exclude the elected ones. Intrusion of such kind will definitely enter into collision with the freedom of religious associations to freely regulate their behavior and handle their matters.

Conclusion: the right to self-identification of a person as a ground for his/her being enrolled as a member of the religious community and his/her being invested simultaneously with powers of the administrative body of the religious community appears as a violation of the international legal principle of autonomy of religious organizations and non-interference of the state into internal activity of denominations to be regulated solely by their internal rules and guidelines.

Therefore, the proposal of the draft law makers that persons can become members of the religious community merely by virtue of self-identification does not comply with the provision, defined in the International Law and enshrined in the above mentioned decision of the European Court of Human Rights.

Given the extreme tension as regards the religious situation in Ukraine, which exacerbated in 2018 due to numerous forceful confrontations and acts of violence against the Ukrainian Orthodox Church and its believers, we call on the international community to make every effort in order to prevent the Ukrainian Parliament from the adoption of the aforesaid bills.

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Human rights situations that require the Council's attention

Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[09 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14198(E)
1814198

Please recycle

On the seizure and re-arrest of the church building located in the village of Ptycha, Dubno district, Rivne region, Ukraine

Our human rights organization has repeatedly drawn the attention of the OSCE and the UN Human Rights Council to the necessity of restoring the rights of the religious community of the Ukrainian Orthodox Church (UOC) in Ptycha village.

Numerous court rulings confirm that the said religious community is a legal owner of the building of the Holy Virgin Assumption church. At present, the community's ownership right to the church is not contested by anyone.

Since 2015, the adherents of the religious organization of the Kyiv Patriarchate, with the support of some radical organizations, have been recurrently trying to take over the church. For this end, they committed raider seizures, initiated legal actions, and exerted pressure on local authorities, who on their part took various actions to either abolish the community's ownership right to the church or to take hold of it in any other possible way.

For instance, on 17.11.2015, Ptycha village council adopted decision No. 25 to establish the shared use of the church building by the two parties to the conflict. Another decision of the Ptycha village council No. 324 as of 22.03.2017 was, in fact, another attempt to transfer the church to the community of the Kyiv Patriarchate by means of a local referendum, despite the existence of the court ruling confirming the ownership right of the UOC community to temple. The two above-mentioned decisions of Ptycha village council were ultimately canceled after the community of the UOC had filed relevant lawsuits.

It is noteworthy that over the course of 2016-2017 the community of the Kyiv Patriarchate failed to initiate a number of trials to abolish the ownership right of the UOC community to the church building. All their claims were rejected by the court.

As it follows from the foregoing, after the UOC had won the trials, its community was supposed to take the possession of the church and use it without any obstacles, while the local authorities had to facilitate this by every possible means.

Instead, on January 19, 2016, the temple was arrested under article 170 of the Criminal Procedure Code of Ukraine within one of the lawsuits that had been initiated upon the claims of the conflicting parties.

In fact, this article does entitle courts to arrest property, but only in the event, if there is sufficient grounds for the belief that such property has been an object, means, or an instrument of a criminal violation, or has been evidence of a crime, or has been gained as a result of commission of a criminal violation and/or as proceeds from such. Even if the church building is considered by the investigative authorities as evidence to be preserved, all the necessary procedural activities could have been accomplished over a two year period. Moreover, since 2016 the investigative authorities should have already taken a decision to either close the criminal proceedings or remit the case to the court. But neither has been done.

Obviously, the church building in view of the circumstances of this case cannot be attributed to any of the categories of property that can be subject to court arrest. Consequently, the arrest was unreasonable and unlawful. This means that the criminal proceedings along with the court ruling to arrest the church building arise from a political decision of local authorities who fail to prevent flagrant violations of the believers' rights of the Ukrainian Orthodox Church.

The community of the UOC, being a law-abiding legal person, has used its right to challenge the arrest, and since 2016 has filed motions to revoke property arrest with a view to renewing the performance of divine services in the temple.

On April 2, 2018, the court ordered to revoke the arrest. However, on the same day the church building was violently seized by unknown armed persons. The police officers, who arrived at the scene of the crime, protected the seized building preventing the legitimate owner, the UOC community, from entering the territory and the church itself, without taking any action to detain the real offenders.

On April 3, 2018, the temple was arrested again on the basis of the appeal of the law enforcement authorities in a new criminal proceeding.

Simultaneously with the new arrest, the authorities, led by the head of Dubno State Administration, head of the village council, began to coerce the owner of the temple – the UOC community – to transfer the building to the Kyiv Patriarchate for no legal reasons. Arguments that the only legitimate owner of the building, as confirmed by numerous court decisions, is the religious community of the Ukrainian Orthodox Church in Ptycha village are disregarded by civil servants.

For the pressure on the faithful, talks were held in the presence of the chief of the police service and the head of the state administration. A. Yurash, head of the Department for Religion of the Ministry of Culture of Ukraine, also took part in the session. All these civil servants exerted unprecedented unlawful pressure on the believers of the UOC and demanded that the building of the church be transferred to the Kyiv Patriarchate, despite numerous court decisions that came into force in favor of the UOC community. Ignoring the law and justice by civil servants has taken on a blatant form, as they formalized their demands towards the UOC community on an official letterhead of the state body – the village council of Ptycha village.

In support of their demands, apart from political motives, the civil servants referred to scandalous bills No. 4128, 4511, 5309, which our organization had reported to the Human Rights Council at the 37th and the present session. Such actions also indicate that if these bills are adopted, human rights violations and attempts to take away the property of the UOC, as in the case of the community of Ptycha village, will become a mass phenomenon in Ukraine.

All these facts testify not only to the fact that law enforcement officials have committed gross violations of the legislation of Ukraine as well as the norms of international law, but also to the fact that government authorities are reluctant to defend human rights when it comes to believers of the Ukrainian Orthodox Church.

Please follow the link below for more information: www.protiktor.com/ptichacase

In accordance with the special procedure of the Human Rights Council, we sent a complaint on this matter due to the fact that the community of Ptycha village, Rivne region, has exhausted all available domestic remedies.

We urge the UN HRC to examine the case of Ptycha village, Rivne region, in an accelerated manner in view of its significance for the religious peace in Ukraine.

United Nations A/HRC/39/NGO/8

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Maarij Foundation for Peace and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14489(E)
1814489

Please recycle

AU ECOSOCC Advisory Opinion on Migration and Human Rights••

The African Migration Policy Framework (EX/CL276 (IX) and the African Common Position on Migration and Development (EX/CL Dec.305 (IX)) adopted by the African Union Executive Council in Banjul, the Gambia in June 2006 highlight the profound effect of globalization on the dynamics of cross-border migration in the current and changing international landscape. As a global phenomenon, international migration brings forth opportunities and challenges that are best addressed by a global mobility regime based on consensus and consultations among stakeholders at community, national, regional and international levels. UN estimates in 2013 indicated that about 232 M people worldwide were living outside their country of citizenship or birth for one year, representing just over three percent of the world's total population. Such migrants, if living in the same territorial entity, would be the world's fifth largest country. Indeed, almost all countries are affected by migration, as nearly every country today is either a country of origin, transit or destination. Migration brings important benefits to states of origin, transit, destination and migrants and their families but it also carries potential and actual costs for each of these categories.

The "migration and development 'lens has assumed increasing prominence as a model for addressing this concern as the international system grapples with the problem of laying building blocks for global system to regulate the movements of people. The difficulty is that International law recognizes the right of people to leave any country, including their own and to return their own country but it does not establish a right of entry to another country. The state authority in such countries retains the sovereign prerogative of deciding on criteria of admission and expulsion of non-nationals, including those involved in irregular migration. Too often, the focus of state authorities is on security and border management without acknowledgement of the intrinsic and wider benefits of migration and the need to ensure a balance in the character of these interactive aspects of the phenomenon.

CONCLUSIONS AND RECOMMENDATIONS

1. In the light of this the AU-ECOSOCC recommends a human right-based approach to migration governance as a framework for mainstreaming international migration within the global policy agenda. Concurrently, the Organ recommends the updating of the AU Policy and Migration framework and Common Position on Migration and Development to promote and place crucial emphasis on this orientation. The justification for this alignment was set forth previously. Both the AU Migration Policy Framework and the Common Position recognize the element of human rights as one of several concerns in sections (2.1) and (3.7) respectively. Indeed, the Migration Policy Framework devotes a significant part of chapter 2.1 to providing guidelines for the adoption of conventions and specific measures to protect the human rights of migrants and urges a comprehensive approach to regulatory and administrative measures to ensure safe, orderly and productive migration. However, the demand here is that it the human rights approach should become the fulcrum of policy and place migrant rights at the heart of the equation in the interest of common humanity as recognized by core international instruments.

2. Second is that the while the two AU Policy framework documents contain elements of roadmaps and recommended strategies to support policy objectives, they fall short of providing precise institutional architecture for implementation. Such an architecture must begin with a recognition of models and structures to address root causes 'the push and pull factors', spin-off and spill over consequences including the hazards of effort and travel and partnerships within African and the International society to build a coordinated and responsive framework of efficient and effective responses at various levels – individual and civil society, communities and nations, regional and global levels.

3. Third, AU-ECOSOCC recommends the establishment of a multi-stake holder dialogue process to develop solutions and implementation programs that would enable success and sustainability. So far, the nexus of efforts in Africa has put primary emphasis on Member States, intergovernmental fora and relevant international organizations and agencies. This has given rise to disconnects with the phenomenon at grassroots levels. Hence there are instances of migrants that have suffered degradations clearly showing a desire to return to these anomalous situations. There is clearly a need for a bottom up approach to evolving solutions. States and intergovernmental organizations could still lead the process but must create coordinate, independent, interactive, intersecting and reinforcing spaces for autonomous and related activities by civil society and community-based initiatives. In the development of such spaces reference can be made and lessons learnt from UN efforts such as the Global Commission on International Migration, High-level Dialogues on International

Migration and Development and the Global Forum on Migration and Development but the AU models must recognize the specific demands and peculiarities of the African environment.

4. AU-ECOSOCC further recommends that AU efforts and programs in the interim must recognize the need to feed effectively into the Global Compact for Safe and Orderly Migration that is scheduled to be finalized in December 2018. In this context, there is a need to address the need to place migrants' rights as the heart of the enterprise and to take appropriate measures to ensure global respect for human rights within the framework of migration in the interest of common humanity. The Universal Peer Review Mechanism (UPR) introduced in 2006 provides an important mechanism for monitoring and oversight of human rights as it involves a review of human rights records of all UN Member States based on the provisions of the UDHR. It may also be useful however, to push additionally for UN Member States to integrate a migrant rights assessment index within the framework of the wider assessment of global human rights record because the comfort afforded to strangers is a more explicit measurement of our basic humanity. There should also be complementary civil society and intergovernmental efforts in this regard. The African Peer Review Mechanism of the AU should also take this on board as charity begins at home. The treatment of cross-border migrants within Africa should form an important component of the State of Governance Report of the APRM as some of the worst and most despicable infractions of human rights occur within the continent in some African States that serve as transit countries. The relevance and integrity of the Migration Policy framework and Common position is strictly dependent on the way and manner in which Africa checks, prevents and eliminates such tendencies and establish processes for holding Member States to account in this regard.

5. The African Union would also need to promote and consolidate the implementation of the continental free movement protocol adopted recently in 2018 in Kigali, Rwanda as it holds forth a promise of free circulation of labor in Africa that could ultimately curb the kind of incidence noted above.

6. It is also important that the development and implementation of regional mobility regimes for migration must decry and eliminate bilateral agreements that extend the sovereign borders of Europe or destination states to Africa through processes by which African states accept a responsibility to create detention centers for African in transit countries. Apart from the fact that such agreements violate the letter and spirit of the Constitutive Act of the African Union, they are also breaching of the law, for instance in ECOWAS countries which allow for free movement of persons across the region.

7. Furthermore, there is need to address the fundamental roots of migration and its "push and pull factors" through appropriate governance policies and by strengthening the educational systems and mounting awareness and sensitization campaigns that paint realistic images of circumstances of destination countries and hazards of the unplanned migration processes so that the intending migrants can take related decisions on the basis of accurate information and expectations. Governments in Africa and elsewhere have also have a social responsibility to deliver on political promises and legitimate social aspirations through concrete service delivery and innovative public policies and programs. Such policies and programs must also apply to challenges associated with natural disasters and the demands for promoting peace and security within and among African states and between them and the wider international society.

8. The Pan-African parliament and those of various African countries can also play a concrete role in this process by supporting the work of national human rights institutions in coordination with the African Regional Centre in Banjul, encouraging governments to discuss migration within the African regional system and the UN while advocating the introduction of human rights indicators on the human rights of migrants.

9. Finally, the AU could also consider the need to appoint a Special Rapporteur on Human Rights of Migrants to coordinate these concerns under the auspices of the appropriate Departments of the AU that deals with human rights and migration concerns in close consultation with the African Union Economic, Social and Cultural Council (AU-ECOSOCC).

**African union ECOSOCC, an NGO without consultative status, also shares the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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Please recycle

Crimes Committed During the War and Occupation of Iraq••

Introduction

This statement focuses on violations of international law during the Iraq War and occupation, and in particular, crimes committed by the United States of America and its allies (hereinafter, the "***Coalition***").[1] The extent of Coalition crimes warrants the establishment of an independent international tribunal that can investigate and prosecute such crimes. This tribunal should also investigate whether the crimes committed during the Iraq War constitute genocide under international law.

Background: The Iraq War

In March 2003, the United States, the United Kingdom of Great Britain and Northern Ireland, and other Coalition members illegally invaded the Republic of Iraq and subsequently occupied the country. Despite the official withdrawal of United States forces in December 2011, the United States continues to dominate Iraqi political affairs.

Human Rights Violations up to and During the Iraq War

Member States comprising the Coalition are bound to comply with international legal obligations, including the four Geneva Conventions of 1949. International humanitarian law applies equally to all parties to an armed conflict, independent of whether the initial use of force was lawful under legal doctrines related to *jus ad bellum*.[2] Persons who commit or order the commission of grave breaches of the Conventions are individually responsible for such breaches.

During the Iraq War, human rights organizations and news outlets reported multiple and overlapping violations of international law, including grave breaches of the Geneva Conventions. These grave breaches were committed by senior members of the Bush administration, military leaders, and individual unit commanders and individual troops.

War Crimes

In an international armed conflict[3] like the initial Iraq War, war crimes include all grave breaches of the Geneva Conventions, including: willful killing, torture or inhuman treatment, unlawful detention, deportation or transfer of a civilian, denying civilians or prisoners of war of fair trial rights, hostage-taking, and wanton destruction of and appropriation of property.[4]

Further, international humanitarian law applies in the whole territory of States involved in the conflict, whether or not actual combat takes place there.

Torture

Since May 2004, human rights organizations and news agencies detailed the use of torture at United States-operated detention facilities, including the Abu Ghraib prison. As described in Maj. Gen. Antonio Taguba's investigation report, the torture at Abu Ghraib included various instances of physical abuse, such as punching,

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[1] This March marks the 15th year anniversary of the Iraq War.

[2] *See* Yoram Dinstein, *Ius in Bello Issues Arising in the Hostilities in Iraq in 2003*, Isr. Y.B. Hum. Rts., vol. 33 at 2 (2003); Wolff Heintschel von Heinegg, *Irak-Krieg und ius in Bello*, Archiv des Völkerrechts, vol. 41, 374 *et seq.* (2003). There can be little dispute that the invasion of Iraq violated *jus ad bellum* principles and amounted to a prohibited act of aggression, constituting a crime against peace.

[3] *Prosecutor v. Tadic*, Case No. IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 70. Int'l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995).

[4] Geneva Convention I, art. 50; Geneva Convention III, art. 130; Geneva Convention IV, art. 147.

slapping, and kicking detainees, arranging naked male detainees in a pile and then jumping on them.[5] The report also detailed a history of sexual abuse and rape at the prison. Many of these acts amount to war crimes.

Mass Killings and Destruction of Civilian Property

Member States of the Coalition directed attacks against the civilian population not taking part in hostilities.[6] For example, Coalition forces attacked residential neighborhoods and hospitals with cluster bombs and tanks, killing hundreds of civilians and largely destroying civilian property. The extent of death and destruction was exacerbated by the use of depleted uranium in bombs and artillery shells. By deliberately targeting civilians that were not taking part in hostilities, or by using weapons indiscriminately, these attacks violated one of the most fundamental rules of the laws of war and amount to grave breaches of the Geneva Conventions.[7]

The Creation of ISIS

The invasion of Iraq and the policies implemented thereafter exacerbated the growth of extremist ideologies in Iraq and facilitated the growth of terror groups in the region.

The provisional Iraqi government (Coalition Provisional Authority) administered by United States proconsul Paul Bremer disbanded the Iraqi army, banned the Ba'ath party and initiated a purge of the government as part of the "de-Baathification" process. These policies left thousands of Sunni soldiers angry and unemployed, weakened the ability of the newly formed army and security forces to counter terror groups and contributed to the number of radical fighters available to join such terror groups. The soldiers who joined radical and terror forces, with their military training, helped professionalize ISIS as a fighting force.

Second, outward U.S. support of a Shiite-dominated government in Iraq marginalized Sunni Iraqis, pushing them towards protest and resistance, and contributing to the emergence of popular support for ISIS.

Third, at the time of withdrawal of the United States in 2011, the U.S. left behind practically non-existent governmental structures, including a weak national army, creating a power vacuum for terror groups to exploit. A hollow Iraqi military quickly collapsed when attacked by ISIS fighters. As ISIS conquered territory, they seized weapons and military equipment left behind by the Iraqi army and financed by the United States.

Accountability

Ignoring Coalition war crimes in Iraq would amount to a loss of accountability under international law. Moreover, the often-criticized bias of international law—holding only poor and non-Western countries liable for international crimes, while ignoring the crimes of Western powers—will be exacerbated if the international community does not prosecute Coalition crimes in Iraq.

All parties to the Geneva Conventions are required to criminalize and prosecute grave breaches. But Coalition governments have largely failed to do so with respect to war crimes committed by their officials and personnel in Iraq. In particular, the United States has refrained from prosecuting its officials for such crimes. In light of the 2017 United States Court of Appeal judgment in *Saleh v. Bush*, the chance of a domestic prosecution in the United States is practically nonexistent.[8]

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[5] *The "Taguba Report" On Treatment of Abu Ghraib Prisoners in Iraq*, Article 15-6 Investigation of The 800th Military Police Brigade, http://news.findlaw.com/cnn/docs/iraq/tagubarpt.html.

[6] Kamal Ahmed, *Revealed: The Cluster Bombs That Litter Iraq*, THE GUARDIAN (May 31, 2003), https://www.theguardian.com/world/2003/jun/01/iraq.foreignpolicy1.

[7] "The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population, are prohibited." Additional Protocol I to the Geneva Conventions, art. 51(2).

[8] In *Saleh v. Bush*, the United States Ninth Circuit Court of Appeal found that a domestic statute granting government leaders "official-act" immunity had greater weight than international treaties and customary international law that ban aggression, even though the norm against aggression is a nonderogable *jus cogens* norm. *Saleh v. Bush*, 848 F.3d 880, 890 (9th Cir. 2017).

The International Criminal Court (ICC) is, at present, the only international criminal tribunal that could potentially have jurisdiction over the war crimes committed by American and British officials. Although the ICC is continuing with its investigation into claims that British troops abused and unlawfully killed prisoners after the U.S.-led invasion under the theory of personal (as opposed to territorial) jurisdiction, the ICC's jurisdiction over other potential international crimes in Iraq is limited without proof of involvement of nationals of ICC parties.[9] An ICC investigation of non-ICC nationals would require a referral by the UN Security Council. Such a referral would likely be prevented by a United States veto.

An independent international tribunal for Iraq would strengthen international humanitarian law, provide victims an opportunity to voice the horrors they witnessed and experienced, would bring justice to the persons responsible for them, and would contribute to restoring and maintaining peace. The international tribunal would apply existing international law to which all parties in the Iraq War are bound, including treaty law and *jus cogens* principles.

Recommendations

- The United Nations should urgently endorse an investigation into whether the crimes committed by the Coalition amount to genocide under international law.
- The United Nations should condemn illegal acts of torture and mass killings by member States, including the ones committed in Iraq by the United States and the Coalition.
- The United Nations should urgently endorse an international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Iraq during the initial invasion and then the subsequent occupation of Iraq by the United States and other Coalition members;
- The United Nations should create a committee responsible for allocating compensation for damages and losses due to the 2003 invasion and the subsequent occupation, including to victims of the Iraq War.
- The Human Rights Council should urgently appoint a Special Rapporteur to monitor and report on the human rights situation in Iraq.

**Just Atonement Inc., Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm), NGO without consultative status, also share the views expressed in this statement.

[9] Owen Bowcott, *The Hague Says Claims of War Crimes by UK Troops Have 'Reasonable Basis'*, THE GUARDIAN (Dec. 4, 2017), https://www.theguardian.com/law/2017/dec/04/icc-to-continue-investigation-into-claims-of-war-crimes-by-british-troops.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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Please recycle

Truth and Justice With Respect to the Iraq War**

This statement focuses on the troubling lack of accountability for the crime of aggression committed through the invasion of the Republic of Iraq in March 2003 by the United States of America.1 Truth and justice related to the invasion of Iraq is urgently needed.

Introduction

In March 2003, the United States of America, under President George W. Bush, along with the United Kingdom of Great Britain and Northern Ireland and other coalition countries (collectively, the "***Coalition***"), invaded Iraq.[2] The United States and the Coalition failed to obtain United Nations Security Council approval to employ this use of force in Iraq. The Bush administration tried to justify the invasion with a theory of anticipatory self-defense, citing a belief that the Hussein government was harboring weapons of mass destruction and suggesting Iraq was connected with the September 11th terrorist attacks.[3]

In January 2004, after the American military action had dismantled Iraqi state institutions associated with the Hussein government, defeated the Iraqi army and other security forces, and killed thousands of Iraqi civilians, the Coalition abandoned this theory.[4] An official report submitted to President Bush by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction concluded the Bush administration was wrong on these grounds, and that claims of weapons of mass destruction were unsubstantiated. Scholars retrospectively suggest that this "error" by President Bush was either evidence that Bush-era officials had reason to believe their claims were weak when the United States invaded Iraq, or, that they knowingly and intentionally invaded Iraq at all costs.[5] If the latter is true, this perpetuated a fraud on American citizens and more generally with the international community with respect to the legitimacy of the war itself.

In September 2005, United Nations Secretary-General Kofi Annan declared the United States-led war on Iraq "illegal" because the United States and the Coalition violated the United Nations Charter (the "***Charter***") when they invaded Iraq without the permission of the Security Council.[6]

Aggression under International Law

During the 1946 Nuremberg Trials, the International Military Tribunal at Nuremberg (the "***Nuremberg Tribunal***") characterized wars of aggression as "the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole."[7] This holding from the Nuremberg Tribunal was subsequently enshrined in the Charter. The Charter only permits acts of violence against another State committed in self-defense or with the explicit approval of the Security Council.[8] The prohibition of aggression contained in Article 2 of the Charter constitutes a *jus cogens* norm of international law, a norm from which no derogation is permitted and for which there is an obligation on all States to support and sustain.[9] Therefore, the prohibition of aggression applies to the United States, the United Kingdom, and every member of the Coalition, without exception.

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1 This March marks the 15th year anniversary of the Iraq War.

2 *The Iraq War: 2003- 2011*, Timeline, COUNCIL ON FOREIGN RELATIONS, https://www.cfr.org/timeline/iraq-war (last visited Jan. 20, 2018).

3 HON. LAURENCE H. SILBERMAN AND HON. CHARLES S. ROBB, COMMISSION ON THE INTELLIGENCE CAPABILITIES OF THE UNITED STATES REGARDING WEAPONS OF MASS DESTRUCTION (Mar. 31, 2005), https://fas.org/irp/offdocs/wmd_report.pdf.

4 *The Iraq War: 2003- 2011.*

5 Ronald Kramer, *et al.*, *The Supreme International Crime: How the U.S. War in Iraq Threatens the Rule of Law*, 32(2) SOCIAL JUSTICE 52, 58 (2005).

6 Ewen MacAskill & Julian Borger, *Iraq War Was Illegal and Breached UN Charter, Says Annan*, THE GUARDIAN (Sept. 15, 2004), https://www.theguardian.com/world/2004/sep/16/iraq.iraq.

7 *Nuremberg Trial Proceedings, Volume 22*, The Avalon Project: Document in Law, History and Diplomacy, YALE LAW SCHOOL LILLIAN GOLDMAN LAW LIBRARY, http://avalon.law.yale.edu/imt/09-30-46.asp (last visited Jan. 21, 2018).

8 U.N. Charter art. 2, ¶ 4; U.N. Charter art. 39.

9 *See, e.g.*, *Barcelona Traction* case decided by the ICJ in 1970, holding that the "outlawing of acts of aggression" is obligation *erga omnes* owed to the entire international community. *Barcelona Traction (Belg. v. Spain)*, Judgement, 1970 I.C.J. 3 (Feb. 5), ¶ 34. *See also* G.A. Res. 2625 (XXV) annex (Oct. 24, 1970); G.A. Res. 3314 (XXIX) annex (Dec. 14, 1974).

The Invasion of Iraq under International Law

The Coalition committed the crime of aggression when they invaded Iraq in March 2003. Despite claims by American and/or British officials that they had approval from the Security Council to invade based on a 2002 Security Council resolution, which threatened Iraq with "serious consequences" if it refused to disarm,10 this was not enough. At no time had the Security Council identified the Iraqi government as a future or imminent threat to international peace, or otherwise authorized an invasion of Iraq.[11] The United States and the United Kingdom were aware of the need for a specific Security Council resolution authorizing the invasion and/or additional use of force, as evidenced by their attempt to pass a subsequent resolution, something they abandoned when it became clear that this additional resolution would be vetoed.12 Ignoring their duty to obtain Security Council approval, the United States and the Coalition invaded Iraq anyway, violating the Charter and breaching the *jus cogens* prohibition against aggression and crimes against peace.[13]

Lack of Accountability over the Iraq War

To date, there has only been one attempt to investigate the issue of aggression in Iraq. From 2013 through 2017, a private class of Iraqi civilians affected by the war sought to hold Bush-era officials accountable through the United States courts, ultimately lodging an appeal and arguing before the United States Court of Appeals for the Ninth Circuit, asking for permission to pursue a lawsuit based on a theory of aggression.[14] However, the Ninth Circuit held that former Bush-era officials were immune from further civil investigation based on the Westfall Act, a law that grants former government officials immunity for acts committed under the "legitimate" scope of their authority.[15] No other serious attempts to investigate the Iraq War and the issue of aggression have been made in the United States or elsewhere.

This lack of accountability sets a dangerous precedent. The illegal war in Iraq not only threatens the doctrine enshrined in the Charter but also erodes the foundation of a world order governed by the rule of law.

The Need for an Independent, International Criminal Court for Iraq

Since the domestic judicial mechanisms of the United States, other Coalition countries or the victim country (Iraq)16 may be ineffective in prosecuting or otherwise examining the issue of aggression, there is a need for an alternative and international judicial platform.

Initially prosecuted on an international level before the Nuremberg Tribunal, the crime of aggression is the supreme international crime. Starting on July 17, 2018, the International Criminal Court (ICC) can narrowly prosecute crimes of aggression, making it the first time since the Nuremberg Tribunal that an international court will be able to prosecute this crime.[17] The ICC's jurisdiction, however, is very narrow and does not apply retroactively. Therefore, the ICC does not have jurisdiction over the crime of aggression committed at the beginning of the Iraq War. Regardless of the lack of jurisdiction over the crime of aggression, the United States would use its veto power to prevent any Security Council-initiated referral in this case. For these reasons, the international community needs a separate independent tribunal to prosecute United States and Coalition officials for aggression.

Like previous international criminal tribunals, an independent international criminal tribunal for the crimes committed in the lead up to the Iraq War will further the cause of justice, enforce and uphold the rule of law, and further international accountability. It will set precedent that no member State can violate the Charter without consequences. Absent such a tribunal, the international rule of law will wither, leading to anarchy and chaos, and ultimately destroying global peace and security.

Recommendations

- The Human Rights Council should urgently endorse an international independent investigation, and in

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10 Security Council Res. 1441 (Nov. 8, 2002).

[11] U.N. Charter art. 39, U.N. Charter art. 44.

12 *France, Russia Threaten War Veto*, CNN (Mar. 10, 2003), http://www.cnn.com/2003/WORLD/europe/03/10/sprj.irq.france.chirac/ (last visited Jan. 28, 2018).

[13] Guardian Staff, *Chilcot Report: Key Points from the Iraq Inquiry*, THE GUARDIAN (July 6, 2016), https://www.theguardian.com/uk-news/2016/jul/06/iraq-inquiry-key-points-from-the-chilcot-report.

[14] *Saleh v. Bush*, 848 F.3d 880 (9th Cir. 2017).

[15] *See generally* 28 U.S.C.A. §2679.

16 While the United States formally "left" Iraq in 2011, it continues to dominate Iraqi political affairs through the present.

[17] Alex Whiting, *Crime of Aggression Activated at the ICC: Does It Matter*, JUSTSECURITY (Dec. 19, 2017), https://www.justsecurity.org/49859/crime-aggression-activated-icc-matter/.

particular, an international tribunal to look into allegations that the United States and the Coalition committed the crime of aggression when they invaded Iraq;

- The Human Rights Council should urgently seek the assistance of independent legal experts and judges who can advise on the creation of an independent tribunal with respect to the crime of aggression committed against Iraq;

- The United Nations should condemn crimes of aggression by member states, including the one committed by the United States and the Coalition when they invaded Iraq.

**Just Atonement Inc., Geneva International Centre for Justice (GICJ), The Arab Lawyers Association- UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm, NGOs without consultative status, also share the views expressed in this statement.

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Human rights situations that require the Council's attention

Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

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On the International Tendency to Violations of the Right to Freedom of Religion and Canonical Identity in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia

The UN Human Rights Council needs to pay attention to new types of offenses, committed by politicians having state power in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia. Such offenses are committed against one and the same group of victims, united by the sign of their belonging to the canonical Orthodox Church.
Regretfully, the listed states violate the human right to believe and profess religious beliefs as part of a freely chosen religious organization.

The above mentioned states strive to impose on the church their vision of what church they need to go to and what church is more "appropriate" from the point of view of nationalism and the new state policy.
In particular, this is precisely the attitude shown by the state power of Ukraine to the Ukrainian Orthodox Church, being far and wide unreasonably accused of its "links with Moscow", "support of separatism", and "anti-Ukrainian vector". Hate speech and open propaganda of aggression in the media leads to en masse violations of the rights of this denomination.

In fact, since 2015, only in Western Ukraine more than 40 temples of the UOC have been subject to church raiding. The state openly supports the alternative non-canonical so-called Ukrainian Orthodox Church of the Kiev Patriarchate. In a number of cases, the government publicly seeks to protect the interests of the Kiev Patriarchate by exerting pressure on the judiciary.

An example of such a case is the situation in Ptichya village, where the community of the UOC, being the owner of the temple, has lost its ownership and property rights because of the court decision to arrest the temple. Such a decision is political, since the UOC community won all the trials that confirmed its legal title to the property. This case is an example of not respecting Ukraine's legitimate institution of property rights essentially. The use of force against the believers of Katerinovka village of Ternopol region when police structures beat up believers of the UOC with the use of truncheons, who were going to enter their own temple, also blatantly violates human rights.

Unfortunately, despite the explicit nature of the violation of the UOC rights and numerous appeals of the victims to the police, we do not know any cases of bringing radicals and other offenders, who have committed public crimes against believers in this Church, to justice.

Moreover, in 2018 senior statesmen – the President, the head of Parliament, MPs of different levels, the Minister of Foreign Affairs considered it necessary to openly intervene in ecclesiastic affairs and use the administrative resource to lobby the creation of the Single Local Church in Ukraine. Civil servants, including power structures, such as the Security Service of Ukraine, interfere in church affairs, exerting pressure on the hierarchy of the UOC to force them to support the new ecclesiastical – but in fact – political ideas of the ruling power. More detailed information about the situation in Ukraine is available:

1. in our statements at previous sessions of the UN Human Rights Council:
   http://undocs.org/en/A/HRC/38/NGO/13, http://undocs.org/en/A/HRC/38/NGO/14,
   http://undocs.org/en/A/HRC/38/NGO/15, http://undocs.org/en/A/HRC/38/NGO/21,
   http://undocs.org/en/A/HRC/38/NGO/22,
2. as well as in the human rights report:
   https://www.protiktor.com/app/download/6756821863/Ukraine+Orthodox+Report+2016.pdf?t=1530605303
3. and on the information page of our human rights organization: https://www.protiktor.com/eng/

In Montenegro, a similar situation arose due to the attitude of the state towards the canonical Archbishops of the Serbian Orthodox Church. Public servants and influential politicians support the non-canonical Montenegrin Orthodox Church, created with the support of the authorities as alternative to canonical Orthodoxy. Nationalist politicians believe there is a more patriotic and less patriotic Church, at the same time presuming to exert an unlawful pressure on the canonical Churches. An example of such pressure is draft law "On Freedom of Religion", submitted to the Parliament

by the Government of Montenegro, Article 52 of which provides for the nationalization of historical property, created by believers until 1918, in favor of the state. Despite negative conclusions of the Venice Commission and the OSCE, this bill continues to be pending and may be finally approved. The situation of Orthodox Christians in Montenegro is described in more detail in our separate statement, presented to the attention at the 39th session of the UN Human Rights Council

In Macedonia, the Ohrid Archbishopric of the Serbian Orthodox Church is under tremendous pressure from the state, which supports the non-canonical so-called "Macedonian Orthodox Church". The authorities presume to provide power support to the non-canonical church, as a result of which the monasteries of the Ohrid Archbishopric were illegally seized. The head of the Ohrid Archbishopric, Archbishop John (Vranishkovsky), has been repeatedly subjected to arbitrary arrest and imprisonment, the total term of which in aggregate exceeds 5 years. The authorities of Macedonia refused to provide state registration for the Ohrid Archbishopric of the Serbian Orthodox Church, so this confession was compelled to appeal to the European Court of Human Rights, which decided in favor of the canonical Church, confirming the violation of the believers' rights by the Macedonian state. This situation is described in more detail in our statement for the 38th Session of the UNHRC No. A/HRC/38/NGO/23.

Consequently, arising from the above facts, we can say that a new type of international offenses is being formed in the world. Victims of such violations are religious organizations and believers of the canonical Orthodox Church of different countries of the world, while offenders are politicians who have received state power and use it contrary to the interests of their people. The party liable for such offenses is both the above politicians, as well as states which fail to fulfill their international obligations to protect human rights in their territory.

In this regard, it is important to protect the right of believers to canonical identity, i.e. the right to profess their faith within the denomination that corresponds to the religious beliefs of a person. It is necessary to affirm the understanding that religion and faith determine a person's relationship with God and regulate human behavior in a wide sphere of life, excluding political aspects. Although religious leaders often interact with such aspects, it is nevertheless necessary to respect international right to profess religion, both internally and through external religious actions, beyond the political context that can be attributed to a particular religious organization or its leaders. The Church unites people of different political views, reconciling them with each other on the basis of the Gospel commandments. States, in turn, must ensure a real and not formal separation of politics from the Church and maintain a neutral and equitable position with regard to the population of their territories, regardless of their religious and political views. This is precisely how the principle of the rule of law and legal order is affirmed and carried out, with real guarantees of human rights being implemented.

It is also necessary to take into account the legal aspect of the autonomy of church organizations as corporations of private law. At present, most states recognize the possibility for any person to create religious organizations. As a rule, legal systems allow registration of religious organizations to small groups of individuals who independently define the name and can include parts of denominations of other faiths, such as "Orthodox", "Catholic", etc. Churches are therefore established, and though they bear the names "Orthodox", they are not recognized as Orthodox by other religious organizations. The reason for this situation is non-compliance of the procedure for the creation of these new structures with canon law, recognized by the world's Orthodox religious centers, which are called Local Churches making part of the World Orthodoxy. The binding force of the norms of canon law as corporate or customary law of a religious organization or associations is recognized by many legal systems.

Therefore, states should respect the right of a religious organization to independently decide on issues of belonging or withdrawing from a particular religious center, the right to determine the membership procedure and the formation of governing bodies in statutes and internal regulations of a religious organization. Unfortunately, in a number of countries, such as Ukraine, this right is also being questioned, which is unacceptable (see the statement of NGO Public Advocacy, no. A/HRC/38/NGO/23). The law and practice of the ECHR have repeatedly asserted the right to ecclesiastical autonomy and the right of religious organizations to independently form their own internal structure of membership and administration, as well as the right to enter or not be part of certain religious centers.
We believe that the current situation calls for the intervention of the Human Rights Council and specific actions, aimed at putting an end to the pressure imposed on canonical Orthodoxy by the political authorities of Ukraine, Macedonia and Montenegro.

We are convinced that without active implementation of international human rights mechanisms, these countries are not able to ensure, by their own efforts, the enforcement of the norms of international law and national legislation guaranteeing to the full extent the freedom of religious belief.

United Nations A/HRC/39/NGO/12

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Human rights situations that require the Council's attention

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GE.18-14491(E)
1814491

Please recycle

Requesting that the U.N. Recognise and Put an End to the Attrocities Being Carried Out Against Christians in Nigeria

1. Introduction

Increasingly, Nigeria has become home to radical groups that seek to eliminate Christianity from the country. These groups are Boko Haram and the Fulani Herdsmen. The governor of the north-eastern Nigerian state of Borno, Kashim Shettima, estimates that '[t]he Boko Haram insurgency has led to the deaths of almost 100,000 persons' with '2,114,000 persons [having] become internally displaced as [of] December of 2016, . . . 537,815 in separate camps' and another '158,201 . . . at official camps'[1].

In addition to the deadly attacks by Boko Haram, there are reports of growing conflict in the central regions of Nigeria between the predominately Muslim Fulani Herdsman and the predominately Christian farmers. The Fulani Herdsman are attacking Christian farmers, destroying homes and churches, and even kidnapping Christian school girls in order to marry them to Muslim men. It is estimated that since 2001 approximately 60,000 Christians have been killed at the hands of the Fulani Herdsmen[2].

We respectfully call to this Council's attention that, pursuant to the Charter of the United Nations, the very purpose of the United Nations is to 'maintain international peace and security, and to that end: to *take effective collective measures for the prevention and removal of threats to the peace*, and for the suppression of acts of aggression . . .'[3]. In addition, under the Convention on the Prevention and Punishment of the Crime of Genocide ('Genocide Convention'), '[a]ny Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the *prevention and suppression of acts of genocide*'[4].

Groups such as the Fulani Herdsman and Boko Haram pose a very real and present danger to Christians – not only in Nigeria, but neighbouring Chad as well. If we fail to act now, the situation within Nigeria will only worsen. More Christians will be killed and many more will become displaced as the violent attacks force them to leave their homes in order to find safety.

2. Background

Despite Nigeria being 40% Christian and 50% Muslim, Christians in the Northern region are a very small minority and are greatly outnumbered by Muslims, some of whom are bent on eliminating Christianity from the region[5].

On 6 June 2014 Boko Haram conducted an altogether new and outrageously heinous attack directly and solely aimed at Christians. Members of Boko Haram disguised themselves as preachers and brutally gunned down 45 Christians as they gathered for church[6].

On 13 January 2015 the city of Baga in Nigeria was overrun and ravaged by Boko Haram insurgents, who left 2,000 dead and caused 35,000 to be displaced. The entire city was destroyed, including Christian churches and places of worship[7].

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1 Sani Tukur, *Shocking Revelation: 100,000 Killed, Two Million Displaced by Boko Haram Insurgency, Borno Governor Says*, PREMIUM TIMES (13 Feb. 2017), https://www.premiumtimesng.com/news/headlines/223399-shocking-revelation-100000-killed-two-million-displaced-boko-haram-insurgency-borno-governor-says.html.

2 Lindy Lowry, *In Nigeria, 39 Killed in Fulani Herdsmen Massacres—Chrisitans Cry Out 'Enough Bloodshed'*, OPEN DOORS USA (2 May 2018), https://www.opendoorsusa.org/christian-persecution/stories/in-nigeria-39-killed-in-fulani-herdsmen-massacres-christians-cry-out-enough-bloodshed/.

3 U.N. Charter art. 1, para. 1 (emphasis added).

4 Convention on the Prevention and Punishment of the Crime of Genocide, art. VIII, Dec. 9, 1948, 78 U.N.T.S. 277.

5 *The World Factbook*, CENT. INTELLIGENCE AGENCY, https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html (last visited 7 Aug. 2018).

6 *Nigeria's Boko Haram Crisis: Maiduguri 'Preachers Kill Dozens'*, BBC NEWS (5 June 2014), https://www.bbc.com/news/world-africa-27716898.

7 Monica Mark, *Boko Haram's 'Deadliest Massacre': 2000 Feared Dead in Nigeria*, THE GUARDIAN (10 Jan. 2015, 5:42 AM), https://www.theguardian.com/world/2015/jan/09/boko-haram-deadliest-massacre-baga-nigeria.

The Fulani Herdsman also pose a deadly and growing threat to Christians living in Nigeria. Since January 2018, the Fulani Herdsman have murdered approximately 6,000 Christians, many of whom were women and children. The International Society for Civil Liberties and Rule of Law, Intersociety stated:

> Nigeria is drifting to [a path of] genocide through killing, maiming, burning, and destruction of churches and other sacred places of worship, and forceful seizure and occupation of ancestral, worship, farming, and dwelling lands of indigenous Christians and other indigenous religionists in Northern Nigeria[8].

If the current rate of slaughter continues within Nigeria, it is estimated that Christians will be completely eradicated within Nigeria by 2043. The Secretary of the National Christian Elders Forum, Bosun Emmanuel, stated, 'Realistically speaking, Christianity is on the brink of extinction in Nigeria. The ascendency of Sharia ideology in Nigeria rings the death toll for the Nigerian Church'[9].

On 24 April 2018, members of the Fulani Herdsman opened fire in Catholic Church during Mass, killing 17 worshippers and 2 priests. Following the attack, Nigerian President Muhammadu Buhari stated, 'This latest assault on innocent persons is particularly despicable. Violating a place of worship, killing priests and worshippers is not only vile, evil, and satanic, it is clearly calculated to stoke up religious conflict and plunge our communities into endless bloodletting'[10].

The following day, another group of Fulani Herdsman dressed in military camo and carrying AK-47s attacked villages 40 miles from where the attack on the church had just occurred. This new attack resulted in the deaths of 39 Christians. Village resident Alice Terwase described the attack:

> The herdsman destroyed more than 60 houses in our village, and three members of my community were also killed in the attack . . . at Tse-Ali village, more than 70 houses were set ablaze and 21 Christians killed. All affected victims are members of the NKST [Universal Reformed Christian Church, or *Nongu u Kristu u i Ser u sha Tar*] Church, and the Roman Catholic Church in the affected Communities[11].

In order to protect the citizens of Nigeria and to ensure more innocent lives are not lost, the government of Nigeria as well as the International Community must take immediate action.

3. Request

The U.N. Charter calls on the U.N. to remove threats to peace, and the Genocide Convention calls on the U.N. to *prevent* acts of genocide not merely to respond to genocide. We have seen in Iraq and in the Syrian Arab Republic what happens when the U.N. fails to take preventive measures when it is clear that mass atrocities are being carried out against a particular group of people. This is only the beginning. If meaningful action is not taken now, the problem in Nigeria will only worsen and Boko Haram will begin spreading to neighbouring countries. ISIS and ISIS affiliate groups, like Boko Haram, have shown their resiliency time and time again. When they are forced out of one area they flee in order to regroup and fight another day[12].

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8 Stoyan Zaimov, *'Pure Genocide': Over 6,000 Nigerian Christians Slaughtered, Mostly Women and Children*, THE CHRISTIAN POST (3 July 2018, 7:42 AM), https://www.christianpost.com/news/pure-genocide-over-6000-nigerian-christians-slaughtered-mostly-women-children-225655/.

9 Stoyan Zaimov, *Christians Could be Killed off in Nigeria by 2043 if Massacres Continue, Leaders Warn*, THE CHRISTIAN POST (25 Jun3 2018, 7:50 AM), https://www.christianpost.com/news/christians-could-be-killed-off-in-nigeria-by-2043-if-massacres-continue-leaders-warn-225329/.

10 *Nigeria's President Decries 'Satanic' Massacre of 18, Including Two Priests, in Catholic Church*, SOUTH CHINA MORNING POST, (25 Apr. 2018, 2:20 PM), http://www.scmp.com/news/world/africa/article/2143261/nigerias-president-decries-satanic-massacre-18-including-two.

11 *Muslim Extremists Murder 39 Christians in Benue State, Nigeria*, MORNING STAR NEWS (26 Apr. 2018), https://www.christianheadlines.com/blog/muslim-extremists-murder-39-christians-in-benue-state-nigeria.html.

12 Tyler Hicks, *Resilience of ISIS and Its Branches*, NEW YORK TIMES (27 Oct. 2016), https://www.nytimes.com/2016/10/28/world/africa/boko-haram-isis-nigeria-niger.html.

This Council must swiftly mobilise in order to prevent these atrocities from escalating to the scale of those atrocities we have seen occur in both Iraq and Syria. We must take action now in order to stop the growing humanitarian crisis and prevent more people from becoming displaced.

This is why we respectfully request that this Council work with the government of Nigeria in order to protect the people who are vulnerable to being attacked by preventing further attacks, prosecuting those who are responsible for these brutal atrocities, and providing aid and assistance to the victims.

United Nations A/HRC/39/NGO/13

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Human rights situations that require the Council's attention

Written statement* submitted by European Centre for Law and Justice, The / Centre Europeen pour le droit, les Justice et les droits de l'homme, a non-governmental organization in special consultative status

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1814205

Please recycle

Requesting that the U.N. Urge Pakistan's New Government to Protect Its Minority Citizens' Lives and Fundamental Freedoms

1. Introduction

Religious minorities in the Islamic Republic of Pakistan continue to face human rights abuses, including mob violence, police torture, false accusations of blasphemy, rape, murder, and other forms of violence on a regular basis. Authorities in Pakistan have shown a continuous inability or unwillingness to protect its minorities from such abuses.

The ECLJ's affiliate office in Pakistan has first-hand knowledge about many instances where religious minorities, especially Christians, have endured persecution, and offers legal assistance.

2. Background

After the recent elections, Pakistan Tehreek-e-Insaaf won most seats in the National Assembly and will likely form a new government with the party's leader, Imran Khan, as the new Prime Minister. Under the new leadership with its mandate to end corruption, the government must be reminded that the previous governments have blatantly violated the human rights of religious minorities. Such human rights abuses are illustrated through the governments' indifference towards frequent terrorist attacks on minorities, the maintaining of broad and abusive blasphemy laws that carry the potential of capital punishment, the inadequate response to targeted crimes against Christians and other religious minorities, and the failure to carry out punishment for such crimes.

While the Constitution of Pakistan protects fundamental rights, in practice, the government has failed to adequately protect these rights. Additionally, regardless of a landmark order given by former Chief Justice Tasadduq Hussain Jillani in 2014, providing a list of instructions to the government for the protection of religious minorities[1], Pakistan has yet to implement most of these instructions[2].

Justice Jillani directed the government to 1) form a 'taskforce' to develop religious tolerance strategies; 2) 'appropriate curricula' promoting a 'culture of religious and social tolerance' in public schools and colleges in adherence to the United Nations' Declaration on the Elimination on All Forms of Intolerance and of Discrimination Based on Religious or Belief; 3) take steps to eliminate 'hate speech' from social media and punish hate speech participants; 4) form a National Council for minorities in order to monitor, safeguard, and implement policies to protect minorities' rights; 5) establish 'a special police force' to safeguard minorities' places of worship; 6) enforce the 'reservation of quota for minorities in all services'; 7) take 'prompt action' when minorities' lawful religious rights are violated or criminal actions occur; and 8) 'open a separate file before a Three Members Bench' to enforce this judgement[3]. The complete disregard for minorities' rights, despite constitutional guarantees, combined with the government's indifference to Justice Jilliani's instructions, effectively prohibits religious minorities from enjoying the legal rights and protections that should be afforded them[4].

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[1] *Suo Motu Case*, (2014) 699 PLD (SC) (Pak.).

[2] Asif Aqeel and World Watch Monitor Staff, *Landmark Judgment on Pakistani Religious Minorities yet to be Honoured by the State*, WORLD MATCH MONITOR (May 14, 2018), https://www.worldwatchmonitor.org/2018/05/landmark-judgment-on-pakistani-religious-minorities-yet-to-be-honoured-by-the-state/.

[3] *Suo Motu Case*, *supra* note **Error! Bookmark not defined.**, para. 37(i)–(viii).

[4] *See* Aqeel, *supra* note **Error! Bookmark not defined.**.

As noted in previous reports filed with the Human Rights Council (HRC), one of the most tragic examples of religious persecution is the attacks on Christian churches and communities both by terrorists and Muslim mobs[5]. Such persecution has continued despite Pakistan's attempt to impose security regulations for places of worship by enacting the Punjab Security of Vulnerable Establishments Act ('the Security Act') in 2015.

After receiving pressure from the local Muslims, police officials and civil authorities in the Nayya Sarabah (Chak 336) village, part of the Toba Tek Singh district near Faisalabad, refused to provide security to the Full Gospel Assemblies Church[6]. The police officials further told the Christians residing in that village that they were not allowed to gather in the church or their homes for worship. The officials told the pastor of the church that the church must be registered with the civil authorities in order for it to be provided security. However, there is no provision either in the Security Act or any other law that requires religious institutions, such as a church or a mosque, to be registered before they can be provided security. Under the Act, 'vulnerable establishment' means, *inter alia*, 'a place of worship or any other religious place'[7]. Additionally, the determination that a place of worship is a vulnerable establishment does not depend on whether it is registered on not.

The HRC must also raise concerns regarding Pakistan's infamous blasphemy laws with the government. As previously noted by the ECLJ and numerous other organisations, blasphemy laws are broad and easy to misuse[8]. Blasphemy charges often result from personal vendettas. Since Pakistan enacted these laws in the 1980s, over one thousand cases have been registered and over forty people are on death row or serving life sentences[9]. Over fifty people have been killed over blasphemy allegations in mob attacks or attacks by individuals. Additionally, hundreds of people accused of blasphemy are serving or have served prison terms ranging from three to ten years.

The HRC must raise Asia Bibi's case with the Pakistani government. Asia, a Christian mother of five, was charged with and convicted of blasphemy for offering her co-workers water from her cup, for refusing to accept Islam, and for reaffirming her faith in Jesus Christ. Asia has spent over eight years in prison. Now she awaits her appeal to be heard by the Supreme Court of Pakistan. With the conviction of the former Prime Minister Nawaz Sharif, Pakistani courts have shown some promising attitude against corruption and abuse of power. It is time for the government to address the unjustified convictions under the blasphemy laws as well as take measures against other human rights abuses of its citizens.

Disconcertingly, during the recent elections, a political party called Tehreek-e-Labbaik Pakistan called for those who commit blasphemy to be put to death while celebrating and encouraging for others to kill alleged blasphemers[10]. In support of blasphemy laws, the party went even as far as to use recent election posters featuring images of individuals who have killed alleged blasphemers.[11]

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[5] *See, e.g.*, Salman Masood, *Pakistan Church Attacked by 2 Suicide Bombers*, N.Y. TIMES (17 Dec. 2017), https://www.nytimes.com/2017/12/17/world/asia/pakistan-quetta-church-attack.html.

[6] Asif Aqeel, *Pakistan: Christians Told They Can't Have a Church in Muslim-majority Village*, WORLD WATCH MONITOR (4 June 2018), https://www.worldwatchmonitor.org/2018/06/pakistan-christians-told-they-cant-have-a-church-in-muslim-majority-village/.

[7] The Punjab Security of Vulnerable Establishments Act, No. 14 of 2015, § 2(i), 18 Mar. 2015.

[8] The statute prohibiting derogatory speech against the Prophet Muhammad covers anything, words or gestures, that can be interpreted as blasphemous by a listener. Pak. Penal Code § 295-C.

[9] Naila Inayat, *Pakistan Alarms U.S. with Harsh Blasphemy Laws Allowing Rise of Radical Islam*, WASH. TIMES (16 Jan. 2018), https://www.washingtontimes.com/news/2018/jan/16/pakistans-islam-blasphemy-laws-hurt-us-relations/.

[10] *Blasphemers Should Be Put to Death, Says One Pakistan Party as Elections Near*, WORLD WATCH MONITOR (11 July 2018), https://www.worldwatchmonitor.org/coe/blasphemers-should-be-put-to-death-says-one-pakistan-party-as-elections-near/.

[11] *Id.*

In light of the climate of religious intolerance in Pakistan, the new Cardinal of the Catholic Church, Joseph Coutts, expressed his own concern with the government's inability to control Islamic extremism[12]. Coutts stated that Pakistan's government is not strong enough to control the level of extremism that has developed. Even the cardinal himself was threatened by extremists[13]. After visiting a Muslim friend's madrassa, he received a violent written warning[14].

3. Request

Pakistan's government, under the new leadership, will now not only have an opportunity, but also has the indispensable duty, to protect all Pakistani citizens, despite and even because of their religious beliefs. The ECLJ requests that the HRC urge the Pakistani government to address human rights issues, especially the minorities' right to religious freedom, equal protection of law, and protection from religiously-motivated violence.

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[12] *Pakistan's New Cardinal Says Government Unable to Stop Religious Extermism*, WORLD WATCH MONITOR (29 June 2018), https://www.worldwatchmonitor.org/coe/pakistans-new-cardinal-says-government-unable-to-stop-religious-extremism/.

[13] *Id.*

[14] *Id.*

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1814206

Please recycle

Lebanese prisons: torture & bed health situation

The Lebanese prisons need everything, and suffer from overcrowding, slow trials and bad health situation. It is not surprising to say that most of the prisons in government institutions do not meet the international standards of prisons.

There are 6429 prisoners in Lebanon's prisons to date, and during the visits done by the Center in 2017-2018 to a number of prisons, we find the following: For example, in Aley prison 92 prisoners, 21sentenced and 71 detainees, Baalbeck prison: 83 prisoners,31 sentenced and 52 detainees, Nabatiyeh: Number of prisoners 139,40 sentenced, 99detainedand the number of rooms 2, Berber Khazen prison, number of female prisoners 58, 16 sentenced , 42 detained; Zahle prison for men, it is build for 350 prisoners but there is 790 prisoners.

Is it reasonable for a paper to keep the prisoner imprisoned or for financial aids of 40 thousand Lebanese liras or not received the summary of his rule and the absence of lawyers and judicial aid, etc.

We can mention also the medical problems suffered from the prisoner's example diabetes, blood pressure, arthritis, dermatology etc....

These samples require accelerated trials and the development of health and psychological care, despite the efforts of the Health Centers of the Health Department of the Internal Security Forces or the humanitarian associations.

In short, the prison problem in Lebanon goes beyond all that is said about it. The main problem is the absence of a government plan and a civilized modern project that transfers prisons from the traditional concept of a punitive institution to Rehabilitation, Educational, cultural and professional. Most prisons in the world are schools where graduate artists, painters and professionals.

Khiam Center, in spite of numerous observations in the establishment of the National Human Rights Commission, which includes the Committee for the Prevention of Torture, is an important step to protect human rights deprived of their freedom, visit places of detention and receive complaints, hoping that the Commission and the Committee will come to light.

Khiam is calling, the alarm bell sounded, calling on the government to give priority to the issue of prisons and to announce a legal and health emergency plan to comprehensively address this chronic issue.

We call the Human Right Council at his 39th session to call the Lebanese government to speed up on funding the NPM to have a role development and promoting Human Rights in Lebanon especially in prisons.

United Nations A/HRC/39/NGO/15

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1814191

Please recycle

Requesting that the U.N. Address China's Continuous Violations of Religious Freedom and Urge China to Reform Its Laws and Policies and Refrain from Enforcing Current Laws

INTRODUCTION

Since December 2017, persecution against religious groups in China has intensified. Christians suffer a majority of the persecution because they are the most organized religion with the highest number of members. The government monitors and suspends church activity because it views religious activity as a threat. Since the Revised Regulations on Religious Affairs (the "**Revised Regulations**") came into effect on 1 February 2018, house churches have faced increased harassment, intimidation, and domination from the government, with thousands of church locations being shut down and Christians detained, arrested, or facing criminal prosecution.

BACKGROUND

1. Arbitrary Application of Article 300

The Chinese government regularly cites Article 300 of the Criminal Law, specifically "organizing evil cults and sects and using superstition to obstruct law enforcement", as justification to persecute religious people and their activities. The Central Government Administrative Office and the Ministry of Public Security has a list of fourteen "evil cults", and followers of these "evil cults" are subject to a maximum sentence of life imprisonment. Since 2017, the government has persecuted Christian house churches in the name of "attacking evil cults", despite the fact that Christianity is not on the "evil cult" list.

The most egregious harassment case thus far occurred on 21 October 2016, when a mass crackdown on Christian groups was launched across Yunnan Province. More than 200 people were detained, and 27 of them were criminally prosecuted under Article 300 for "organizing evil cults and sects and using superstition to undermine law enforcement". These Christians were falsely accused of practicing "Three Grades of Servants", one of the evil cults designated by the National Public Security Bureau. The accused Christians were either missionaries or local believers. The alleged criminal conduct included sharing the Gospel, preaching, praying, and spreading "evil cult" related materials. After being detained and deprived of their freedom for over 400 days, the accused Christians were tried in 6 local courts and sentenced to imprisonments spanning 1.5 to 13 years, with no evidence of a relation to an evil cult.

As the Provincial Higher Court has set a unified standard for judging the cases, and the judgment rendered must have been pre-approved by the Provincial Higher Court, the appeal process is a mere formality. An appellate court upheld one of the trial court's decisions without conducting a hearing. Such court decisions potentially render all Christians in Yunnan in violation of Article 300.

2. Increasing Pressure on House Churches due to the Revised Regulations

The Revised Regulations have increased pressure on Chinese Christians and enhanced the government's control of religions, through the prohibition of all unregistered religious activities. According to Article 21 of the Revised Regulations, small group gatherings in private homes for religious purposes are no longer allowed, but instead it requires registration of venues for any religious activities[1]. This empowers the local authorities to lawfully and freely shut down all house churches as religious groups not recognized by the government, which makes it impossible for them to register as meeting venues. For instance, in one of the districts of Nanyang, a city in the Henan Province, thirty-one house churches were shut down within the first week of the implementation of the Revised Regulations, and over a hundred were closed down across the whole city.

1 Regulations on Religious Affairs (2017 Revision) (promulgated by the State Council, 26 Aug. 2017, effective 1 Feb. 2018), art. 21, 35, 40, 67, CLI.2.301551 (EN) (Lawinfochina).

Moreover, under the Revised Regulations these is no way for unregistered groups to legally receive donations or acquire property, and such donations or property are confiscated[2]. Thus, local religious bureaus impose large fines for any donated funds received on house churches, without due process. In Guangdong Province, the religious bureau implemented an internal policy consisting of a 50,000 RMB (USD 7,500) fine against house churches regardless of the amount of the donation. The first victim of this internal policy was the Reformed Bible Church in Guangzhou. Even though the authorities found no evidence of any donations, the church still was fined RMB 50,000.

The largest urban church in Beijing, the Zion Church, is also facing severe challenges under this new law. In March 2018, the police demanded that the church install surveillance cameras. The church refused, and church members were harassed and threatened by their landlords, employers, public security bureaus, and other authorities. The church was slandered as an illegal gathering and evil cult. Two months later the church received notice from its landlord that the venue's lease, with a term of 5 more years, would end by August 2018. The police also shut down the church's bookstore and cafeteria, which had been operating legally for years.

3. Religious Freedom Severely Restricted for Minors

On 20 May 2018, authorities broke into a church service in Zhengzhou, Henan Province, and demanded that all children under 18 leave the service immediately. The officers refused to allow a woman to stay at the service because she was holding her infant. Similar incidents have occurred during church services in many cities around China. The government wrongfully uses the Revised Regulations to stop minors from engaging in any form of religious activity. The Revised Regulations only forbid preaching in non-religious schools and educational institutions, but states nothing about prohibiting minors from entering religious venues. The government, however, implements the Revised Regulations to such an extent that they equate preaching a sermon to religious education, making it impossible for minors to enter even government approved registered churches (known as the "three-self church"). More and more three-self churches are putting out signs that say "No Minors under 18" at their entrances. At Zhengzhou Three-Self Catholic Church, the local authorities frequently visit the Sunday Mass, stand at the entrance, randomly check attendees' IDs, and enforce the "no minors" policy.

Moreover, Christian schools affiliated with churches were also shut down by authorities. At public schools and universities, campus ministry is strictly forbidden. In some schools, even religious discussions or individual prayers are interrupted, and the individuals involved face school discipline. Some celebrations, such as Easter and Christmas, are prohibited at schools and universities in China to ensure young people resist the "corrosion of Western religious culture". The National Religious Bureau and the United Front Work Department even ordered government held Catholic churches to stop all religious activities for students, including summer and winter camps, Sunday schools, and other youth group activities.

In addition, the enforcement policies have become such a problem that local officials will visit schools and insist that students with Christian parents not follow their parents' religious beliefs or attend Sunday worship. Many parents have to give up their own religious activities, as their children are forbidden from entering religious venues with them.

The government's arbitrary interpretation and implementation of the Revised Regulations deprives minors in China of religious freedom far beyond the text of the Revised Regulations themselves.

4. Crackdown over Christian Activities on the Internet

The implementation of the Revised Regulations also led to stronger control over Christian activities on the Internet. For instance, since 1 April 2018, Chinese Holy Bibles are no longer available for sale online per the Chinese government. Not a single Bible is available at Chinese online stores.

Moreover, the Revised Regulations demand prior approval from Provincial Religious Bureaus for any individual or entity to mention religiously related matters on the internet. Failure to comply may result in administrative sanctions

2 Id.

and even criminal penalties. For example, Pastor Yi Wang, a former law professor and pastor of the largest church in Southwest China, has been in-and-out of the local detention center numerous times for sharing gospel related messages on social media. He was also threatened with criminal charges if he continues similar online messages without obtaining prior approval from the government. However, the Revised Regulations provide neither standards nor procedures for obtaining prior approval. This requirement inevitably empowers the Provincial Religious Bureaus, without any motivation to take up the responsibility, to arbitrarily deny application at their sole discretion. So far, no applicant is known to have successfully obtained such approval. In the meantime, countless faith-based websites and social media accounts have been shut down by the government. Many house churches intended to continue their weekly services through online audio chats after their physical venues were shut down, but their online platforms were also immediately blocked by the government.

REQUEST

The above examples are provided by our contacts in China and are merely the most recent examples of persecution faced by Christians in China. The United Nations must address China's continuous violations of the freedom of religion and urge China not only to reform its laws and policies but to refrain from enforcing the current laws. Chinese law and its enforcement are severely restricting fundamental human rights, and the United Nations must address these violations and encourage China to carry out its obligation to guarantee religious freedom for all of its citizens under its constitution as well as its international commitments under the ICCPR.

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Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

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1814215

Please recycle

Situation of Human Rights Defenders in Indian Administered Kashmir

The Human Rights advocates world over are threatened, attacked and silenced. The message is clear. As no one is immune, many advocates across the globe will be unable to work freely and without fear of retaliation.

One of the precarious situations for human rights defenders is Indian Administered Kashmir. Indian government feels threatened by any dissent. They label human rights concerns as "illegal outside interference" in their internal affairs; and challenge to their sovereignty.

Civil society in Indian Administered Kashmir faces visa restrictions, confiscation of passports, travel bans, and arbitrary police investigations and detention. Activists' movements are thwarted and their interactions with those abroad restricted. They are facing administrative and legal repercussions for their advocacy –selectively applied laws, like Public Safety Act of 1990 or measures undermining their legal legitimacy or ability to receive funding to survive.

Civil society activists also face arbitrary detentions, denial of medical treatment, extra-judicial killings and enforced disappearances.

On 14th of June 2018, Office of the High Commissioner for Human Rights released first ever report on the situation of human rights in Jammu and Kashmir.

The OHCHR report on Kashmir highlights the lack of access to justice, impunity enjoyed by the Indian armed forces and excessive use of force by them, enforced or involuntary disappearances, sexual violence, and restriction on freedom of expression, limitations on right to education attacks on hospitals and paramedics and reprisals against human rights defenders and media gag.

The frequent shutdowns of internet and telecommunications and targeting of media interfered with exercise of right to freedom of opinion and expression. More often government imposed ban on social media sites and a huge number of social media activists are detained under the lawless law Public Safety Act (PSA)

Human rights defenders who cooperated with United Nations Human Rights Institutions and tried to bring international attention to the human rights situation in Jammu and Kashmir have faced reprisals while access to information has been obstructed for journalists.

Prominent human rights defender Khurram Parvez was arrested and detained under PSA on 15 September 2016, a day after being prevented from travelling to Geneva to attend Human Rights Council Session. Human rights lawyer Kartik Murukutla, who works with JKCCS, was detained at the New Delhi airport immigration desk on 24 September 2016 on his return from Geneva after attending the 32nd Session of UNHRC. Photojournalist Kamran Yousuf was arrested on 5 September 2017 and charged with sedition for allegedly being involved in a "conspiracy against the nation". In its special court in New Delhi, the National Investigative Agency accused Kamran Yusuf of being involved in "several stone-pelting incidents". He was released after the Intervention of journalist's organization on 12 March 2018.

French journalist and documentary film-maker Paul Comiti was arrested on 9 December 2017 in Srinagar for allegedly violating Indian visa conditions.

On 15th of July 2016 Jammu and Kashmir Police raided the offices of three prominent newspapers in Kashmir. The newspapers were not allowed to publish for three days and copies of newspapers were seized and some staff reporters detained.

In 2016 Srinagar based English Daily 'Kashmir Reader' was banned for three months for reporting the on ground human rights situation. Several international groups working on media freedoms, including PEN International and the Committee to Protect Journalists, have criticized the ban on the Kashmir Reader.

Unlike the reports of many NGOs and civil society groups that have reduced the Kashmir Issue to a case of human rights violations without contextualizing the historical and political realities - conveniently ignoring the larger political

question; the UN report closes with a strong recommendation to: "fully respect the right of self-determination of the people of Kashmir as protected under international law."

After such a damning report it was expected that India would initiate a debate on how the human rights record can be improved. But the Indian Government chose to reject it.

Indian government not only rejected the report but described it as "fallacious, tendentious and motivated besides calling it "selective compilation of largely unverified information" that sought to build "a false narrative", adding that it violated the country's sovereignty and territorial integrity.

India launched a full- scale diplomatic and media campaign to make the report controversial and even tried to undermine the credibility of the highest institution responsible for the promotion and protection of human rights and questioned the integrity of the UN High Commissioner on Human Rights.

Indian electronic media started a simmering against human rights defenders of Indian Administered Kashmir who may have cooperated with the United Nations Human Rights Special Procedures Division and OHCHR, labeling them as terrorist and working for the third party. This simmering campaign endangered the lives of the rights activists, members of civil society groups, quoted in the report of the Office of the High Commissioner. They began to receive life threats from intelligence agencies and government sponsored militant groups.

First causality of Indian antagonism was the cold blooded murder of noted Kashmiri journalist and peace activist, Chief Editor of Srinagar based English Daily Rising Kashmir. Hours before he fell to the bullets of unidentified gunmen, Rising Kashmir editor Shujaat Bukhari had vigorously defended his work on Twitter when some Delhi-based journalists accused him of doing "biased" reportage on Kashmir, and had posted the UN Report on alleged human rights violations in the Valley.

One of his last tweets read: "First-ever @UNHumanRights report on #Kashmir calls for #international inquiry into multiple violations".

Killing of Bukhari was a chilling reminder to all Kashmir journalists and rights activists who cooperated with UN system or reported the ground situation against the wishes of Indian State. Aqib Javeed Hakeem, a Srinagar based journalists was interrogated by National Investigation Agency (NIA) for three days in Delhi. NIA officials asked him questions related to his family background, his education, his source of income, and his interview with separatist leader Asiya Andrabi. The largest English daily Greater Kashmir was pressurized to submit the raw reporting materials. Questioning Auqib Javeed without a lawyer and trying to force 'Greater Kashmir' to submit raw reporting material is a serious attack on press freedom.

During last 30 years human rights defenders and journalist in Kashmir are walking on razor edge. 30 journalists and dozens of human rights defenders were killed by the state agents and men in uniform. Those include, noted human rights activists Haydith Nath Vanchoo, jurist Jalil Andrabi, Asia Jalani , Shujjat Bukhari, Dr. Abdul Ahad Wani , Dr. Groo , Asia Geelani , Parvaz Sultan , Pir Hasm-u-din and others.

This year marks the 70th Anniversary of the Universal Declaration of Human Rights. It is Important for the collective human rights community, and the UN membership at large to recall the circumstances that led to the Deceleration and its unanimous adoption.

The fact that Government of India is engaged in intimidation and reprisals against members of the civil society whose "Crime" is that they cooperate with UN would have the original drafters of that noble documents turning in their graves.

Despite what human rights defenders are facing, the strength and resilience of these human rights defenders of Indian Administered Kashmir that deal with United Nations is heartening and United Nations owes to support them and protect them from state reprisals.

United Nations should take note of the situation of human rights defenders in Indian Administered Kashmir and call upon government of Indian to end its repressive policies and allow free flow of information.

United Nations Human Rights Council should take note of the recommendation of the OHCHR report to establish commissions of inquiry to investigate the past and present human rights violation in Kashmir including the violations perpetrated against the human rights defenders.

If the impunity continues for such crimes, this is likely to increase fear in those seeking the protection of the UN and other human rights actors.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Human Trafficking in Bahrain••

Introduction

Human trafficking is a crime is punishable under international law. It does not stand in a particular country and its victims are millions of people including women, children and men who are exploited for various purposes such as forced labor and prostitution. The International Labor Organization estimates (ILO) estimates the number of victims of trafficking in persons at 21 million.

According to reports from the United Nations and the US State Department, 11 million women and girls and 9 million men and children work under harsh conditions. As a result, the United Nations urges all States to seek to prevent and punish trafficking in persons as well as to save and protect its victims. Failure to do so is considered to violate the human rights and fundamental freedoms of victims.

While Bahrain has recently made some progress regarding the Kafala system, the luring of victims through false promises to earn money from workers seeking to get to work in the Kingdom is still ongoing. This includes issuance of low wages, confiscation of migrant workers' passports, physical, psychological and sexual attacks as well as the exploitation of bulk labor.

Victims of trafficking are often deluded to work in the Kingdom through empty promises of attractive salaries and better life conditions. As a consequence, foreign workers often borrow money or sell their property in their own countries and upon their arrival in Bahrain, but still find themselves without work. Victims of trafficking are thus enticed by deceit or coercion and deprived of their independence and freedom of movement and choice.

Current legal system regarding human trafficking in Bahrain

Since 2006, the Labor Market Regulatory Authority (LMRA) has been the body responsible for work permits for foreign workers in Bahrain. It has contributed to the development of programs and laws which aim to ensure workers are able to move from one job to another, and employers prohibited from confiscating their passports.

Bahrain has also promulgated Law No. (1) of 2008 on trafficking in persons, which includes the notion of crime of trafficking in persons and its penalty. This law prohibits all forms of trafficking in persons and imposes penalties ranging from 3 years to 15 years' imprisonment. It also designates the National Committee to Combat Human Trafficking. Still, these recent developments do not ensure basic protection of domestic servants. Tools of supervision and inspection have not been applied to them, leading many women to work long hours without interruption.

Exploitation of domestic servants

Indeed, maids in Bahrain have become female prisoners and are often not allowed to communicate with their family. Upon their arrival in Bahrain, their passports and personal documents are immediately confiscated, leaving them unable to return to their countries.

Moreover, full knowledge of their rights is limited, considering they are obliged to sign contracts in a language they do not understand. As a result, their visa often expires and is renewed without their knowledge or consent. No law currently obliges homeowners to transfer the salary of the maid to a bank account that guarantees her rights if she claims not to receive her wages. Since payslips are being signed by the owners in a language maids are unfamiliar with, they often cannot prove being unpaid and are afraid of filing complaints, particularly if homeowners are influential people working for the State or in the military.

Indeed, some influential people in Bahrain are involved in trafficking in persons, where they, through brokers abroad, delude women to work as waitresses in hotel restaurants or to earn good salaries in different sectors and after their arrival in Bahrain. This results in these women paying important sums of money to brokers in their countries, thus exposing them to blackmail and prostitution in some hotels. This, in turn, leads to violations of workers' rights and to impunity in cases of trafficking.

In addition to this, it should be noted that the offices of the agencies in charge of recruiting maids sometimes place them in detention following their refusal to work in homes where they are being mistreated. In case of escape, the employer

may submit an escape complaint against the maid, which is turned into an offender rather than a victim. In the case of surrender or arrest, authorities place them in detention until their deportation.

Recommendations

To the government of Bahrain:

1. Tightening the supervision of recruitment agencies,
2. Periodically inspecting houses and checking on maids,
3. Informing maids of their rights and means of communication with government agencies and embassies of their countries, in their native languages,
4. Developing domestic legislation and laws criminalizing human trafficking, including domestic servants,
5. Implementing these laws to all, including influential in the state and members of the ruling family,
6. Establishing shelter centers for victims of human trafficking for the duration of their settlement rather than detention in detention centers in police stations,
7. Activating committees for continuous monitoring and inspection of houses
8. Reviewing the life conditions of maids periodically and effectively.

**Salam for democracy and Human Rights, NGO without consultative status, also shares the views expressed in this statement.

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Please recycle

Mistreatment and lack of medical care in Bahraini prisons**

Mistreatment in prisons

In Bahrain, authorities are failing to meet the minimum standards for the treatment of prisoners, notably by using torture, harassment and retaliatory policies against political prisoners and placing them under extremely harsh detention conditions. Dry Dock Prison and Jau Central Prison, in particular, have been known for their use of coercive interrogations and serious human rights abuses. A number of former detainees have reported being subjected to physical assault, including electric shocks, suspension in painful positions, compulsory standing for prolonged periods, exposure to extreme low temperatures, sexual assault and abuse, and other forms of torture. That is, in addition to considerable restrictions from the authorities on their communications in violation of human rights standards and the Nelson Mandela Rules. This has led many prominent Bahraini activists, including Nabeel Rajab, to call on the Government to abide by international human rights standards.

Lack of adequate medical care

Denial of medical care is another serious issue in Bahraini prisons, where convicted prisoners who wish to receive treatment at private health centers – often at their own expense – are not able to do so. Despite efforts made by the prison administration to release prisoners whose life in prison poses a threat to their lives, this possibility is only granted in a very limited number of cases of insurmountable diseases.

One example is that of Hassan Mushaima, aged 70, who - at the time of writing this report- is in urgent need of treatment. Suffering from several chronic diseases which he had previously undergone several operations for, the prison administration is still preventing him from having access to medical care and medication. While he has called on competent authorities and the prison administration for his health status to be taken into account, no response was ever given to him from either of these parties. In addition to this, and along with his fellow imprisoned opposition leaders, he was also subjected to humiliating inspection of his personal items, some of which were arbitrarily confiscated.

Shortage of medical staff

Regarding in-prison medical care, and despite the high numbers of detainees, specifically in Jau central prison and Dry Dock prison, only one doctor is available for per facility. As a result of this shortage, relatives of detainees have often reported that doctors do not always perform medical examination but resort to less time-consuming options such as giving medication and painkillers. Furthers, doctor often delay the transfer of some detainees to hospitals and outpatient clinics, while other prisoners are prevented from being transferred as a direct consequence of the prison administration failing to ensure their right to undergo medical examination in the first place.

Recommendations

In light of all of the above, SALAM for Democracy and Human Rights recommends:

To the Bahraini authorities:

- to take quick and urgent steps in order to end the suffering of detainees,
- to allow all detainees to receive the necessary and appropriate medical treatment,
- to release all prisoners of conscience, especially those suffering from chronic diseases and persons with special needs,
- to stop targeting human rights activists, politicians and media who demand justice and respect of their rights,
- to release, redress and compensate them for the damage they suffered,
- to recognize them as national symbols who bear the love of the homeland and its interest in their heart.

**Salam For Democracy and Human Rights, NGO without consultative status, also shares the views expressed in this statement.

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Please recycle

Use of counterrorism legislation against citizens in Bahrain**

Introduction

In August 2006, the King of Bahrain ratified Law No. 58 of 2006 on the Protection of Society from Terrorist Acts. Nearly ten years after the enactment of this law, Bahraini authorities have used it to intimidate citizens from exercising civil and political rights. Considering all articles of criminalization present in this law can already be found in the Bahraini Penal Code, the usefulness of this new piece of legislation, which considerably intensifies punishment against citizens under the pretext of terrorism, remains questionable.

Restrictions on freedom of expression, assembly and association

First, the unnecessary generation of more excessive laws has crushed civil movement and democratic activity as well as eliminated freedom of expression in Bahrain, where social activities, seminars and pro-democracy events were ones of the most active in the region. In this way, state security authorities have been able to bring charges against political dissidents, human rights organizations and activists, who are considered long-term opponents to the government.

Examples include the imprisonment of Al-Wefaq's leader Sheikh Ali Salman and human rights activist Nabeel Rajab, the torture and sexual assault of human rights defender Ebtisam Al-Saegh, the dissolution of Bahrain's only independent newspaper Al-Wasat, the imposition of travel bans on activists as well as the excessive use of deportation, long prison sentences, citizenship revocation, execution and enforced disappearances. The latter has notably been classified by the United Nations as a crime against humanity, with the International Convention for the Protection of All Persons from Enforced Disappearance stating that "no person shall be subjected to enforced disappearance and no exceptional circumstance, whether a state of war or a threat of war, internal political instability or any situation, may be invoked to justify enforced disappearance"[1].

Empowerment of bodies

Further, Bahrain's counterterrorism legislation has given broad powers of the Public Prosecutor's Office, the National Security Agency and the judges in Bahrain, with the latter often issuing sentences which cannot be commuted. In addition to this, it has also led to the use of military courts in order to intimidate political dissidents and activists. On April 18, 2017, the King ratified another law disqualifying the civil judiciary from trying those charged with serious offenses related to terrorism. This piece of legislation has granted full powers to the military judiciary in trying civilians and without any specification of the exceptional or temporary nature of these powers. No valid justification exists for this practice, especially in light of the strictness of the civil judiciary, which had previously issued death sentences, carried out executions, revoked the nationality of hundreds, forcibly deported others, and often issued lifelong prison sentences.

Incompatibility with international law

Bahrain's Anti-terrorism Act is incompatible with international human rights law. This is deeply troubling, especially considering the Kingdom's membership to the United Nations Human Rights Council. On July 25th, 2006, a United Nations human rights expert thus urged the government of Bahrain to amend the anti-terrorism bill, expressing deep concerns that the law could harm human rights in the country and would be "disturbing in particular". Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedom Martin Schein has also called for a review of the law and has encouraged the executive and legislative authorities to amend it in order to bring it into conformity with international human rights law.

Recommendations

In light of the previous remarks, we recommend:

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[1] OHCHR | Convention CED. https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx.